2026:CGHC:12839-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Judgment Reserved on : 13.03.2026

Judgment Delivered on : 18.03.2026

FA No. 549 of 2017

Lalwani And Sons Through Its Prop. Kalyan Dad Lalwani, S/o Late Ruchandmal Lalwani, Aged About 57 Years, R/o Nehru Nagar Main Road, Bilaspur, Tahsil And District Bilaspur Chhattisgarh , Chhattisgarh

... Appellant(s)

versus

1 - Firm Cheema Bricks Wrongly Mentioned As Brieks Through Its Partners Jagveer Singh Chima S/o Sohan Singh Chima, Aged About 35 Years C/o Chima Local Carrier Shankar Nagar Raipur Road Mahasamund, Tahsil And District Mahasamund Chhattisgarh, Chhattisgarh

2 - Gurumukh Singh Chima, S/o Gurucharan Singh Chima, Aged About 42 Years C/o Chima Local Carrier Goyal Complex Shop No. 09, Minocha Petrol Pump Telibandha Mahsamund Road Raipur, Tahsil And District Raipur Chhattisgarh , District : Raipur, Chhattisgarh

3 - Jaspal Singh Chima, S/o Sohan Singh Chima, Aged About 40 Years C/o Chima Local Carrier Shankar Nagar Raipur Road Mahasamund, Tahsil And District Mahasamund Chhattisgarh , District : Mahasamund, Chhattisgarh

4 - Jagroop Singh Chima, S/o Sohan Singh Chima, Aged About 40 Years C/o Chima Local Carrier Shankar Nagar Raipur Road Mahasamund, Tahsil And District Mahasamund Chhattisgarh, District : Mahasamund, Chhattisgarh

... Respondent(s)

For Appellant(s) **:** Mr. Kalyan Das Lalwani, Appellant In Person.

For Respondent(s) **:** Mr. Manoj Paranjpe, Sr. Advocate along with Ms. Shivangi Agrawal, Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

CAV Judgment

Per Ramesh Sinha, Chief Justice,

1. Heard Mr. Kalyan Das Lalwani, Appellant In Person. Also heard Mr. Manoj Paranjpe, Sr. Advocate along with Ms. Shivangi Agrawal, Advocate, appearing for the Respondents.

2. The appellant/ plaintiff has filed the instant appeal under Section 96 of the Code of Civil Procedure, 1908, challenging the impugned judgment and decree dated 23.08.2017 passed by the learned Additional District Judge, Bilaspur, in Civil Suit No. 1-B/2013, whereby the civil suit filed by the appellant/ plaintiff for recovery of Rs. 21,18,500/- has been dismissed.

3. The appellant/plaintiff filed a civil suit seeking recovery of Rs. 21,18,500/- from the defendants, with the pleading that he was engaged in the coal business, purchasing coal from SECL through e-auction and selling it to various parties. The defendants, who are operating a brick

kiln at Mahasamund, required coal for their kiln operations and had agreed on terms and conditions for its supply with the plaintiff. In the year 2011-12, the plaintiff sold 2793.270 MT of coal, amounting to Rs. 78,35,046/-, on credit, and the details of which are annexed as Schedule-1. In the year 2012-13, the defendants purchased 500 MT of coal, amounting to Rs. 15,29,855/-, from the plaintiff, which was lifted from Laxman Colliery of SECL through DO No. 121384 dated 24.03.2012, the details of which are given in Schedule-2 of the plaint. The plaintiff further pleaded that the details of the vehicles used for transporting the coal were provided in Schedule-3, while the actual transportation of coal for the year 2011-12, as per Schedule-1, was recorded in Schedule-4. Since the defendants were local transporters, they arranged for the transportation of the coal using their own trucks. The plaintiff claimed that although the defendants purchased coal amounting to Rs. 78,35,046/- on credit in 2011-12, they paid only Rs. 58,05,000/-, leaving an outstanding balance of Rs. 20,30,046/-, as detailed in Schedule-5 annexed with the plaint. This formed the basis of the recovery claim in the suit.

4. It is further pleaded that in the year 2012-13, the defendants purchased coal from the plaintiff, amounting to Rs. 15,29,855/- on credit. However, the defendants paid Rs. 17,14,700/-, the details of which are given in Schedule-6 annexed with the plaint. After adjusting the payments made by the defendants, the total outstanding amount comes to Rs. 18,45,201/-. The plaintiff stated that he made several efforts, including telephone calls, requesting the defendants to

pay the balance amount, but the defendants evaded payment. Subsequently, the plaintiff served a legal notice through his counsel, which was replied to by the defendants denying any liability. As a result of the outstanding dues, the plaintiff filed the civil suit seeking recovery of Rs. 18,45,201/-, along with damages of Rs. 2,73,300/- and interest at the rate of 18% per annum.

5. The defendants, upon service of summons, filed their written statement denying the claim of the plaintiff. They admitted that they had purchased a total of 2793.270 MT of coal in the year 2011-12, amounting to Rs. 78,35,046/-, but denied the accuracy of the Schedules annexed with the plaint. While admitting the coal purchases from the plaintiff, they contended that the price for the coal had been paid regularly. According to the defendants, in the year 2011-12, they purchased coal worth Rs. 67,49,568/-, and the only outstanding amount at the end of that financial year was Rs. 2,61,068/-.

6. Similarly, for the year 2012-13, the defendants stated that they purchased coal amounting to Rs. 14,93,261/-, but had already paid an excess amount of Rs. 9,88,439/- over and above the actual price of coal supplied. Thus, for the two financial years 2011-12 and 2012-13, the plaintiff had allegedly received an excess amount of Rs. 7,46,133/-, for which no coal was supplied. The defendants further pleaded that the plaintiff failed to adjust several payments made by their drivers, including Rs. 2,02,000/- for the year 2011-12 and Rs. 6,70,000/- for the year 2012-13, as well as Rs. 4,81,500/- for 2011-12 and Rs. 97,000/- for 2012-13. The defendants annexed the details of these transactions

as Schedule-1 and Schedule-2 with their written statement, claiming that the amounts were not properly accounted for by the plaintiff. They also referred to Schedule-3 (from the plaint) showing amounts deposited through their drivers, and Schedules 4 and 5 of their written statement detailing the actual transactions between the parties.

7. The defendants specifically denied that entry No. 33 of Schedule 3, dated 06.05.2012, reflected a genuine transaction, asserting that no coal was supplied on that day. Similarly, they denied the coal deliveries recorded in entry Nos. 23, 24, 25 of Schedule-4(1) and entry Nos. 17 to 24 of Schedule-4(2) of the plaint. They also denied that they purchased coal worth Rs. 78,35,046/- in 2011-12, or that they paid only Rs. 58,05,000/-, with an outstanding of Rs. 20,30,046/-. The defendants contended that since the business was ongoing, Rs. 2,61,068/- alleged outstanding amount for 2011-12 was not a true liability, and after adjustments for payments made in 2012-13, the plaintiff had received an excess amount of Rs. 7,46,137/-, which the defendants are entitled to recover.

8. Further, the defendants denied that they purchased coal worth Rs. 15,29,855/- on credit in 2012-13. Instead, they pleaded that the actual purchase was Rs. 14,93,261/- and that they had paid Rs. 17,14,700/-, Rs. 6,70,000/-, and Rs. 97,000/-, which already exceeded the price of coal supplied. They pleaded that no outstanding amount exists in their favour; rather, the excess payments made by them are recoverable from the plaintiff. Consequently, the defendants filed a counterclaim for the recovery of the said excess amount. The

defendants further pleaded that the plaintiff failed to adjust an amount of Rs. 8,72,000/-, which is reflected in Schedule-6 annexed with the plaint. This amount corresponds to the details shown in Schedule-2 of the defendants' written statement, along with the vouchers annexed thereto, and should have been accounted for in the plaintiff's records.

9. The defendants have also filed a counterclaim for recovery of Rs. 7,46,133/-, with the pleading that in the financial year 2011-12, the outstanding amount was Rs. 2,61,068/-. In the following year, 2012-13, the defendants purchased coal amounting to Rs. 14,93,261/-, but had excessively paid Rs. 9,88,439/-. After adjusting the accounts, the defendants assert that an excess payment of Rs. 7,46,133/- was made to the plaintiff, for which they filed their counterclaim seeking recovery of the same.

10. The plaintiff filed the written statement in reply to the defendants' counterclaim, reiterating the pleadings and transaction details stated in his original plaint. He maintained the liability of the defendants as claimed in the suit and denied the allegations and claims made in the counterclaim. The plaintiff prayed for dismissal of the defendants' counterclaim.

11. Based on the pleading of the parties, the learned trial Court has framed the following issues:-

Sr. No.	**Issues**	**Result**
1.	Whether the defendants have purchased 3293.27 metric ton coal from the plaintiff on credit basis?	Not Proved
2.	Whether the plaintiff is entitled to get coal's credit amount of Rs. 18,45,201/- from the	Not Proved

	defendants?	
3.	Whether for purchasing of coal the defendants have given Rs. 7,46,133/- in excess to the plaintiff ?	Not Proved
4.	Relief (help and litigation expenses) ?	In Para No. 24

12. In support of his case, the plaintiff Kalyan Das Lalwani examined himself as PW/1 and relied upon the documents of legal notice dated 11.09.2012 (Ex-P/1), reply of the legal notice dated 22.09.2012 (Ex-P/2), details of the coal lifted from Laxman colliery and Manikpur colliery (Ex-P/3), details of coal lifting statement from Gevra project (Ex-P/4), copy of debit information (Ex-P/5), copy of the vouchers (Ex-P/6 to P/67), audit report of the plaintiff's firm (Ex-P/68 and P/69), copy of the ledger account of the plaintiff's firm (Ex-P/70, and 71), copy of the letter dated 13.06.2016 issued by the commercial tax officer, Bilaspur, Circle-2 (Ex-P/72), the letter issued by the Commercial Tax Department (Ex-P/73, 74 and 75), the letter written to the Commercial Tax Department by the plaintiff (Ex-P/76 and P/77).

13. The defendants have examined Jagweer Singh (DW/1), Ram Kripal (DW/2), Mahendra Kumar Nirmalkar (DW/3), Nilkanth Sahu (DW/4), and relied upon the counter slip of bank deposit receipt (Ex. D/1 to D/3), copy of registration certification of the firm Cheema Bricks (Ex-D/4c and D/5c).

14. After conclusion of the trial and hearing the parties, the learned trial Court passed its judgment and decree on 23.08.2017 and dismissed the suit of the plaintiff as well as the counter claim of the defandants holding that the parties could not prove their claim by

producing sufficient evidence with respect to their transaction and payment made by them. The said judgment and decree are under challenge in the present appeal by the plaintiff.

15. The appellant/ plaintiff in person would submit that the learned trial Court has failed to appreciate the evidence produced by the plaintiff with respect to their transaction. The vouchers and bank transactions have not been properly appreciated by the learned trial Court. The transaction between the parties and their business relationship has not been denied by the defendants, but there is only a dispute regarding the settlement of the account. He would further submit that the defendants have admitted that there was an outstanding amount of Rs. 261068/- in the year 2011-12, but they excessively paid Rs. 988439/- in the year 2012-13, and they have not furnished any document that they have paid the said excess amount to the plaintiff. Once they admitted the transaction between the parties and the plaintiff proved the transaction of supply of coal to them by delivery voucher as well as delivery orders issued by the SECL, the burden shifts upon the defendants to prove the payment of the price of coal supplied to them. The coal was being transported through the trucks, and their truck numbers were duly mentioned in the delivery order issued by the SECL at the time of lifting the coal from there. A false claim has been raised by the defendants in their counterclaim, and once their counterclaim has been dismissed and the defendants have not challenged the dismissal of their counterclaim, the same attains its finality, and it strengthens the claim raised by the plaintiff. He would also submit that the plaintiff has given the details of

every transaction made between him and the defendants and proved his case for recovery of the claimed amount. He would further submit that from the audit report, submitted by the plaintiff, it has also been proved that there was an outstanding amount of Rs. 1845201/- for which the plaintiff is entitled to recover from the defendants. The learned trial Court has erred in disbelieving the documents filed by the plaintiff on the ground that the documents are the plaintiff's own record, therefore, the impugned judgment and decree suffer from perversity and illegality and the same is liable to be set aside and a decree for recovery of an amount of Rs. 2118500/- along with the interest be passed in his favour.

16. On the other hand, learned Senior Advocate appearing for the respondent opposes the submission made by the plaintiff and submits that the impugned judgment and decree passed by the learned trial Court dismissing the suit of the plaintiff is justified, which is based on proper appreciation of evidence. It is the plaintiff's burden to prove that the outstanding amount against the defendants came from their business transaction; however, the plaintiff could not demonstrate the proper account of the supply of coal to the defendants and the amount paid by them to him. The bills and vouchers are self-served statements made by the plaintiff which cannot be relied upon. He would also submit that the audit report has been prepared by the Chartered Accountant on the instance of the plaintiff, but the same has not been submitted along with the income tax return to the income tax department to make it a genuine report. To prove the audit report, its author has not been

examined, so that the genuineness of the said audit report can be examined. The plaintiff could not be able to prove the actual quantity of coal supplied by him to the defendants, though certain Schedules have been provided by him with respect to the lifting of the coal; however, the coal so lifted had actually been supplied to the defendants have not been proved.

17. Learned counsel for the respondents would further submit that the entire claim of the appellant/plaintiff is based on the self-prepared schedules, ledger extracts and credit memos (Ex. P/3 to Ex. P/70), which are stated to have been prepared from the plaintiff's own books of account. Even assuming such entries were maintained in the course of business, the same cannot by themselves fasten liability upon the defendants in view of the provision of Section 34 of the Indian Evidence Act, 1872, which provides that although entries in books of account regularly kept in the course of business are relevant, such entries alone shall not be sufficient to charge any person with liability. Learned counsel submits that the plaintiff admittedly failed to produce the original cash books, ledgers, delivery orders, transport documents, or acknowledged invoices to corroborate the alleged transactions, and therefore the schedules and statements relied upon by him remain unverified and self-serving. It is further submitted that the settled legal position is that entries in books of account require independent corroboration before liability can be fastened upon the opposite party. In support of his submissions, he would rely upon the judgment of the Hon'ble Supreme Court reported in 1998 (3) SCC 410 (**Central Bureau**

of Investigation vs. V.C. Shukla and Others). Therefore, in the absence of any independent documentary proof of delivery of coal or acknowledgement of liability by the defendants, the plaintiff has failed to discharge the burden cast upon him, and the learned trial Court has rightly dismissed the plaintiff's suit. Therefore, there is no merit in the appeal, and the same is liable to be dismissed.

18. At this juncture, he would fairly submit that, in view of the dismissal of his counterclaim, the defendants also filed their appeal before this Court bearing F.A. No. 177/2018 (Firm Cheema Bricks through its Partners Shri Jagveer Singh v. Lalwani and Sons), which was dismissed on technical grounds of non-compliance with the pre-emptory order of failure to remove default within the stipulated time, and the defendants could not restore the same. The said pre-emptory order was passed on 08-09-2025, and the F.A. No. 177/2018 is treated as dismissed for default.

19. We have heard the appellant in ‘person’ and learned Senior Advocate appearing for the defendants, and gone through the record of the learned trial court with utmost circumspection.

20. The points for consideration in the present appeal would be whether the plaintiff has proved the outstanding amount against the defendants with respect to his claim by producing sufficient documentary evidence.

21. PW-1 Kalyan Das Lalwani, the plaintiff, deposed that he had business transactions with the defendants for the supply of coal and that a sum of Rs. 18,45,201/- remained outstanding against them. In his

examination-in-chief, he reiterated the averments made in the plaint and claimed recovery of about Rs. 21,18,500/- from the defendants. However, in his cross-examination, he admitted that he had not filed any document to establish that he was the proprietor of the firm Lalwani and Sons. He further admitted that Schedules 1 to 6, including the seven sub-schedules under Schedule-4, were prepared by him in computerized format on the basis of the entries in his account books. He further admitted that he had not produced the original records from which the said schedules were prepared. The schedules were copied from a register maintained by him, but he had not filed the original register, cash book or ledger before the Court. He also admitted in paragraph 20 of his cross-examination that he had not filed any audit report relating to the transactions mentioned in the schedules, though such report ordinarily contains complete details of the financial transactions for the relevant year. He further admitted that the firm Lalwani and Sons is an income-tax assessee, yet he had not filed the income-tax returns for the financial years 2011-12 and 2012-13 before the Court.

22. In paragraph 21 of his cross-examination, he admitted that he had not filed any bills, vouchers or cash memos in respect of the supply of coal mentioned in Schedules 1 to 6, although the entries in those schedules were stated to be based on such cash memos. He further admitted that there was no reason for the non-filing of these documents, though he stated that the same could be produced if directed by the Court. He also stated that he could not clearly state the exact dates of

supply, the parties to whom the coal was supplied, or the rate at which the coal was supplied. According to him, the total value of coal supplied was approximately Rs. 93,00,000/-, out of which he had received about Rs. 70-75 lakhs, leaving an outstanding amount of about Rs. 18,00,000/-.

23. He further admitted that the rate of coal supplied was not mentioned in Schedule-1. Although he initially stated that the coal was supplied at different rates and that the rates were mentioned in the schedule, he subsequently admitted that Schedule-1 does not specify any different rates of coal. He also stated that he could not recall the exact rates at which the coal had been supplied. He stated that the relevant credit memos relating to the transactions could be produced before the Court if so directed.

24. In further cross-examination, the plaintiff/P.W. 1 admitted that in Schedule-3 annexed with the plaint, the details of trucks were not mentioned in entry numbers 15, 16, 22 and 33. He also admitted that he had not filed any acknowledgment or receipt from Cheema Bricks regarding the alleged supply of coal and that the transactions were claimed to have been made in good faith in the normal course of business. He further admitted that the drivers of the trucks mentioned in Schedules 3 and 4 were not drivers of Cheema Bricks. Although he voluntarily stated that those trucks had been engaged for transportation to Cheema Bricks, he admitted that no document had been produced to show that the said trucks belonged to Cheema Bricks or that the defendant firm had authorized them. He also admitted that no

documentary evidence had been filed to substantiate the alleged supply of 500 MT and 393.270 MT of coal mentioned in Schedules 3 and 4.

25. He further admitted that he had not filed any Delivery Order (DO) in the present case. He stated that the DO is usually submitted in the colliery and that he had filed documents relating to the colliery. He also admitted that the trucks mentioned in Serial Nos. 17 to 24 of Schedule-4(2) did not belong to Cheema Bricks. He further admitted that in respect of the alleged supply of 123.370 MT of coal mentioned in Schedule-4(2), the schedule does not disclose which trucks carried the coal, on what date it was supplied, or to whom it was delivered. He also admitted that there was no document to show whether those trucks belonged to Cheema Bricks or were authorized by the defendant firm. He further admitted that several trucks mentioned in Serial Nos. 1 to 23 of Schedule-4(6) and Serial Nos. 5, 6, 12 and 28 of Schedule-4(7) did not belong to Cheema Bricks, and there was no document on record to show that the defendant firm had authorized those trucks. He further admitted in paragraph 34 of his evidence that he had received certain payments from Cheema Bricks through RTGS, and that the amount reflected in Ex. D-1 to D-3 worth Rs. 10,70,000/- had not been disclosed in the plaint.

26. On 12-01-2017, the plaintiff was re-examined, and he marked Ex. P-6 to P-70 on the documents produced by him, which included credit memos relating to coal transactions, ledger accounts and the audit report. The defendants raised objections to the exhibition of these documents, and the Court kept the objections pending to be decided at

the time of final disposal of the case. In further cross-examination, the plaintiff stated that during the financial years 2011-12 and 2012-13, except for transactions with Cheema Bricks, he had not made any transactions with other parties within the State, though he stated that he had some transactions outside Chhattisgarh, the details of which he could not explain.

27. He further admitted that all the credit memos bearing Serial Nos. 01 to 61 appeared to have been prepared in the same ink and with the same ball pen, and the handwriting on them was also similar. He also admitted that he had not filed the duplicate slips relating to the lifting of coal. He further admitted that documents Ex. P-73 and Ex. P-74 did not bear the seal or signature of Cheema Bricks, and the bills Ex. P-76 and Ex. P-77 did not contain the TIN number, Sales Tax number or registration number of the firm, nor did they contain any acknowledgment of Cheema Bricks. He also admitted that the audit report did not bear his signature and that it had been prepared by his C.A., and he acknowledged the endorsement made in Column B-1 of Annexure-I of Ex. P-68 and Ex. P-69.

28. The defendant witness (DW-1 Jagbeer Singh), who is a partner of M/s Cheema Bricks, stated that he looks after the entire business and accounts of the firm. He deposed that the firm had business dealings with the plaintiff firm, Lalwani & Sons, for the purchase of coal on the basis of an oral agreement. According to him, coal was supplied by the plaintiff as per demand and payments were made from time to time through bank deposits as well as through truck drivers. He stated that

during the financial year 2011–12, coal worth Rs. 67,49,568/- was supplied, out of which only Rs. 2,61,068/- remained at that time, and during 2012–13, coal worth Rs. 14,93,261/- was received, against which substantial payments were already made. He further stated that payments including Rs. 2,02,000/- through IDBI Bank and other amounts of Rs. 1,70,000/- and Rs. 5,00,000/- were deposited in the plaintiff's account, and receipts of these payments were produced before the Court.

29. He further deposed that the plaintiff has made incorrect entries in his own ledger and incorrect schedules annexed with the plaint, and has not adjusted several payments received through bank transactions and through drivers. He denied receiving certain quantities of coal mentioned in the plaintiff's schedules and stated that many cash memos do not contain proper truck numbers or weight details. According to the defendant's calculation, after adjusting all transactions for the financial years 2011–12 and 2012–13, no amount is payable to the plaintiff and rather an excess amount of Rs. 7,46,133/- has been paid by the defendant firm to the plaintiff. In cross-examination, the witness admitted that the plaintiff had earlier issued a legal notice demanding Rs. 18,45,201/-, to which he replied through his advocate, but stated that at that time the complete and final accounts had not yet been calculated.

30. It is well-settled that in a recovery suit the burden lies on the plaintiff to establish his case by credible evidence, and not by mere assertions or self-serving documentary statements. Under Section 101

of the Indian Evidence Act, 1872, the burden of proof is on the person who substantially asserts the affirmative of the issue; in a suit for recovery of money, the plaintiff must prove that the debt is due and payable and the amount claimed is correctly computed. The plaintiff in this case has relied upon computerized schedules and self-prepared statements (Ex-P/1 to Ex-P/77), none of which were supported by original books of account, delivery orders, or validated invoices. In cross-examination, the plaintiff admitted that he had not produced original cash books, ledgers or delivery orders and could not even specify the precise dates of supply or the rate at which goods were sold, rendering the evidence unsatisfactory and insufficient to discharge his burden of proof as mandated by Section 101 of the Evidence Act.

31. The Hon’ble Supreme Court has repeatedly held that the quality of evidence, and not merely quantity, is critical in civil disputes; documents must inspire confidence and be capable of verification from independent sources. In this case, the plaintiff’s evidence comprised schedules, prepared from his own account books without the production of original records, credit memos, bills or cash memos accompanied by delivery receipts. The plaintiff’s audit report was neither filed before the income-tax department nor supported by the testimony of the Chartered Accountant who prepared it. The non-production of delivery orders and original transport documents further weakens the plaintiff’s case, as such documents are integral to proving the physical supply of goods in transactions.

32. It is necessary here to notice Section 34 of the Indian Evidence Act, 1872 (Section 28 of Bhartiya Sakshya Adhiniyam, 2023), which is as follows:-

> **34. Entries in books of account, including those maintained in an electronic form**], regularly kept in the course of business, are relevant whenever they refer to a matter into which the Court has to inquire, but such statements shall not alone be sufficient evidence to charge any person with liability.

33. In the case of **Central Bureau of Investigation Vs. V.C. Shukla and Ors**, reported in **(1998) 3 SCC 410**, in para 35 to 37, the Hon'ble Supreme Court has held that:-

> 35. The probative value of the liability created by an entry in books of account came up for consideration in Chandradhar Goswami v. Gauhati Bank Ltd. That case arose out of a suit filed by Gauhati Bank against Chandradhar (the appellant therein) for recovery of a loan of Rs 40,000. In defence he contended, inter alia, that no loan was taken. To substantiate their claim the Bank solely relied upon certified copy of the accounts maintained by them under Section 4 of the Bankers' Book Evidence Act, 1891 and contended that certified copies became prima facie evidence of the existence of the original entries in the accounts and were admissible to prove the payment of loan given. The suit was decreed by the trial court and the appeal preferred against it was dismissed by the High Court. In setting aside the decree this Court observed that in the face of the positive case made out by Chandradhar that he did not ever borrow any sum from the Bank, the Bank had to prove the fact of such payment and could not rely on mere entries in the books of account even if they were regularly

kept in the course of business in view of the clear language of Section 34 of the Act. This Court further observed that where the entries were not admitted it was the duty of the Bank, if it relied on such entries to charge any person with liability, to produce evidence in support of the entries to show that the money was advanced as indicated therein and thereafter the entries would be of use as corroborative evidence.

36. The same question came up for consideration before different High Courts on a number of occasions but to eschew prolixity we would confine our attention to some of the judgments on which Mr Sibal relied. In M.S. yesuvadiyan v. P.S.A. Subba Naicker one of the learned Judges contituting the Bench had this to say:

> "Section 34. Evidence Act, lays down that the entries in books of account, regularly kept in the course of business are relevant, but such a statement will not alone be sufficient to charge any person with liability. That merely means that the plaintiff cannot obtain a decree by merely proving the existence of certain entries in his books of account even though those books are shown to be kept in the regular course of business. He will have to show further by some independent evidence entries represent real and honest transactions and that the moneys were paid in accordance with those entries. The legislature however does not require any particular form or kind of evidence in addition to entries in books of account, and I take it that any relevant facts which can be treated as evidence within the meaning of the Evidence Act would be sufficient corroboration of the evidence would be furnished by entries in books of account if true."

While concurring with the above observations the other learned Judge stated as under:

> *“If no other evidence besides the accounts were given, however strongly those accounts may be supported by the probabilities, and however strong may be the evidence as to the honesty of those who kept them, such consideration could not alone with reference to Section 34, Evidence Act, be the basis of a decree."*
>
> (emphasis supplied)

37. In Beni v. Bisan Dayal it was observed that entries in books of account are not by themselves sufficient to charge any person with liability, the reason being that a man cannot be allowed to make evidence for himself by what he chooses to write in his own books behind the back of the parties. There must be independent evidence of the transaction to which the entries relate and in absence of such evidence no relief can be given to the party who relies upon such entries to support his claim against another. In Hira Lal v. Ram Rakha the High Court, while negativing a contention that it having been proved that the books of account were regularly kept in the ordinary course of business and that, therefore, all entries therein should be considered to be relevant and to have been proved, said that the rule as laid down in Section 34 of the Act that entries in the books of account regularly kept in the course of business are relevant whenever they refer to a matter in which the Court has to enquire was subject to the salient proviso that such entries shall not alone be sufficient evidence to charge any person with 9 liability. It is not, therefore, enough merely to prove that the books have been regularly kept in the course of business and the entries therein are correct. It is further incumbent upon the person

relying upon those entries to prove that they were in accordance with facts.

34. Further, in the case of “**Ishwar Dass Jain (dead) Through LRS. v. Sohan Lal (dead) by LRS.**”, 2000 (1) SCC 434, the Hon’ble Supreme Court held that:-

> 23. Now under Section 34 of the Evidence Act, entries in "account books" regularly kept in the course of business are admissible though they by themselves cannot create any liability. Section 34 reads as follows:
>
> > "34. Entries in books of account when relevant- Entries in books of account, regularly kept in the course of business, are relevant whenever they refer to a matter into which the court has to inquire, but such statements shall not alone be sufficient evidence to charge any person with liability."
>
> It will be noticed that sanctity is attached in the law of evidence to books of account if the books are indeed "account books" i.e. in original and if they show, on their face, that they are kept in the "regular course of business". Such sanctity, in our opinion, cannot attach to private extracts of alleged account books where the original accounts are not filed into court. This is because, from the extracts, it cannot be discovered whether the accounts are kept in the regular course of business or if there are any interpolations or whether the interpolations are in a different ink or whether the accounts are in the form of a book with continuous page-numbering. Hence, if the original books have not been produced, it is not possible to know whether the entries relating to payment of rent are entries made in the regular course of business.

> 25. In the recent judgment of this Court in Central Bureau of Investigation v. V.C. Shukla it has been laid down that for purposes of Section 34, "book" ordinarily means a collection of sheets of paper or other material, blank, written or printed, fastened or bound together so as to form a material whole. Loose sheets of paper or scraps of paper cannot be termed as "book" for they can be easily detached and replaced. It has also been held that: (SCC p. 432, para 34)
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> > "The rationale behind admissibility of parties' books of account as evidence is that the regularity of habit, the difficulty of falsification and the fair certainty of ultimate detection give them in a sufficient degree a probability of trustworthiness."
>
> When that is the legal position, extracts of alleged account books, in our view, were wrongly treated as admissible by the courts below though the original books were not produced for comparison nor was their non-production explained and nor was the person who had prepared the extracts examined.

35. In the aforesaid judgments, the Hon’ble Supreme Court emphasized that books of account constitute only corroborative evidence and cannot by themselves prove the liability of another person unless supported by reliable and independent material. Applying the aforesaid principle to the facts of the present case, the schedules, ledger statements and credit memos relied upon by the plaintiff, being prepared from his own records and not supported by original books of account, delivery orders, transport documents or acknowledged invoices, cannot by themselves establish the alleged outstanding

liability of the defendants. Consequently, the plaintiff has failed to discharge the burden cast upon him to prove the claim by cogent and reliable evidence.

36. The defendants, conversely, have produced bank deposit receipts (Ex-D/1 to Ex-D/3) and oral testimony establishing payments made by them, several of which were not adjusted by the plaintiff in his accounts. The defendants also identified specific entries in the plaintiff's schedules that were incorrect, unsupported by truck authorizations or weight details, and in certain instances denied outright. Here, the cumulative evidence presented by the plaintiff fails to meet this standard, while the evidence adduced by the defendants reasonably demonstrates that there was a substantial payment and that the plaintiff incorrectly reflected the accounts. On the preponderance of probabilities, the defendants' evidence stands on a better footing than the plaintiff's self-generated schedules. The Courts have consistently held that in civil matters the standard of proof is "preponderance of probability", not beyond a reasonable doubt.

37. In the case of "**Iqbal Singh Marwah v. Meenakshi Marwah**", 2005 (4) SCC 370, the Hon'ble Supreme Court has held that :-

> "32. Coming to the contention that an effort should be made to avoid conflict of findings between the civil and criminal courts, it is necessary to point out that the standard of proof required in the two proceedings are entirely different. Civil cases are decided on the basis of preponderance of evidence while in a criminal case the

> entire burden lies on the prosecution and proof beyond reasonable doubt has to be given……."

38. The plaintiff filed the present suit claiming recovery of Rs. 21,18,500/- on the basis of the alleged supply of 3293.27 MT (2793.27 + 500 = 3293.27) of coal to the defendants during 2011–12 and 2012–13. The plaintiff relied primarily on self-prepared schedules, annexures, and credit memos (Ex.P-3 to Ex.P-67), along with correspondence from SECL (Ex.P-3 and Ex.P-4), to establish the supply and outstanding dues. However, the trial court noted that these documents did not conclusively demonstrate delivery of coal to the defendants, as discrepancies existed in the delivery order numbers and original registers, cash books, and delivery receipts were not produced. Certain credit memos bore the defendant's registration number even before the firm was officially registered, and the continuity of bills was inconsistent with other transactions undertaken by the plaintiff outside Chhattisgarh. The plaintiff also admitted in cross-examination that he had not filed corroborative evidence such as income-tax returns, further undermining the reliability of his evidence. On this basis, the trial court rightly held that the plaintiff's documents were insufficient to establish the quantity of coal supplied or the amounts due.

39. The learned trial court correctly applied the principle of preponderance of probability, under Section 101 of the Indian Evidence Act, 1872, and held that the plaintiff had failed to discharge his burden of proof. The court also emphasized that self-serving statements or schedules, without independent verification, cannot form the basis for a

civil claim. Considering the totality of evidence and the deficiencies in the plaintiff's evidence, the dismissal of the plaintiff's claim is justified and reasoned exercise of discretion, in accordance with settled principles of law.

40. Consequently, the appeal filed by the plaintiff is liable to be and is hereby **dismissed**.

41. Parties to bear their own costs.

42. An appellate decree be drawn accordingly.

Sd/-	Sd/-
(Ravindra Kumar Agrawal)	**(Ramesh Sinha)**
Judge	Chief Justice

sagrika

Head Note

The account book is a private and unilateral record maintained by one party and such record cannot be treated as substantive evidence under Section 34 of the Indian Evidence Act, 1872, to impose liability for enforcement of a legal right without independent and corroborative evidence.