2026:DHC:8639-DB

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

% **Date of decision: 30.09.2026**

\# **CNR No. DLHC010294072022**

\+ RFA(COMM) 49/2022

M/S VASUNDHARA SALES CORPORATION THROUGH ITS PARTNER MR. SIDHARTH SURAGARHIA

.....APPELLANT

Through: Mr. Dhananjay Gupta, Mr. Amit Ranjan Singh, Advs.

versus

M/S SSS DESIGNTEK PVT. LTD. THROUGH ITS DIRECTOR MR. SACHIN HANDA & ANR.

.....RESPONDENTS

Through: Ms. Aanchal Basur & Mr. Abhay Kumar, Advs.

CORAM:
HON'BLE MR. JUSTICE AVNEESH JHINGAN
HON'BLE MS. JUSTICE SHAIL JAIN

AVNEESH JHINGAN, J. (ORAL)

1. The appeal is filed against the order dated 28.05.2022 passed by the District Judge, Commercial Court, Central District, Tis Hazari Courts (hereinafter 'the Commercial Court') accepting the application filed under Order VII Rule 11 of the Code of Civil Procedure, 1908 (CPC) (for brevity 'the application').

2. The brief facts are that the appellant/plaintiff (hereinafter 'the appellant') filed a pre-institution mediation under Section 12A of the Commercial Courts Act, 2015 (for short 'the Act'). The proceedings were non-starter. A suit for recovery against the respondent/defendant

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nos.1 and 2 (hereinafter 'the respondents') was filed on 23.10.2021. The application was filed by the respondents raising grounds of territorial jurisdiction and limitation. The application was allowed and the suit was held to be time-barred. Hence, the present appeal.

3. Learned counsel for the appellant contends that the commercial court for deciding the application erred in considering the material beyond the pleadings in the suit. The submission is that a complicated mixed question of fact and law cannot be decided in the application. For deciding the issue of limitation, the extension of limitation due to Covid-19, the effect of the last payment made on 18.09.2018 and the issuance of C-form under the Central Sales Tax Act, 1956 (for short 'CST Act') require adjudication. The ledger produced by the appellant was relied upon as evidence of the amount due and was stated to be a categorical admission by the respondents of the sum of Rs.24,18,281/-.

4. *Per contra*, the commercial court passed a detailed order and calls for no interference. The submission is that the pleadings in the suit were duly considered while deciding the application. It is emphasised that making of part payments shall not extend the limitation. Lastly, no evidence was produced by the appellant of acknowledgment of debt by the respondents.

5. Heard learned counsel for the parties at length.

6. The commercial court rejected the ground of territorial jurisdiction stating that there was a dispute regarding the place where the orders were given, the place of dispatch of goods and the place from where payments were made.

7. The plea of suit being time-barred was accepted considering that

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as per the last invoice dated 31.01.2016 the time of fifteen days was given for making the payment and it was held that the cause of action accrued on 15.02.2016 but the suit was filed on 23.10.2021.

8. The case pleaded in the plaint is that there was regular placement of orders for supply of goods between the parties to the *lis* and the supplies were on credit basis. After 31.03.2016, no fresh order was placed by the respondents, payment of rupees one lakh was made on 17.11.2017 and thereafter payments of rupees eleven lakhs were made on 08.06.2018 and 18.09.2018. There was a balance amount recoverable of Rs.13,18,281/- with interest of Rs.4,54,716-.

9. Having not received the entire outstanding payment, the legal notice was issued on 25.01.2020. Along with the suit a copy of the ledger account was produced to contend running account was maintained between the parties and the payments made by the respondents were being adjusted therein.

10. The law is well settled that for deciding an application under Order VII Rule 11, CPC the court has to restrict to the pleadings in the plaint and the averments therein are taken to be correct. At this stage, the court is not required to weigh the contentions of the respondents which are immaterial. Reference in this regard may be made to the following decisions of the Supreme Court:

10.1 In ***P. Kumarakurubaran v. P. Narayanan & Ors.,*** 2025 INSC 598 held as under:

> "12.1. However, we are of the considered view that the issue as to whether the appellant had prior notice or reason to be aware of the transaction at an earlier point of time, or whether the plea regarding the date of knowledge is credible, are

matters that necessarily require appreciation of evidence. At this preliminary stage, the averments made in the plaint must be taken at their face value and assumed to be true. Once the date of knowledge is specifically pleaded and forms the basis of the cause of action, the issue of limitation cannot be decided summarily. It becomes a mixed question of law and fact, which cannot be adjudicated at the threshold stage under Order VII Rule 11 CPC. Therefore, rejection of the plaint on the ground of limitation without permitting the parties to lead evidence, is legally unsustainable.

10.2 In ***Uma Devi & Ors. v. Anand Kumar & Ors.,*** 2025 INSC 434 held as under:

"15. In Madanuri Sri Rama Chandra Murthy v. Syed Jalal (2017) 13 SCC 174, this court laid down the scope of Order 7 Rule 11 CPC :

> 7. The plaint can be rejected under Order VII Rule 11 if conditions enumerated in the said provision are fulfilled. It is needless to observe that the power under Order VII Rule 11, CPC can be exercised by the Court at any stage of the suit. The relevant facts which need to be looked into for deciding the application are the averments of the plaint only. If on an entire and meaningful reading of the plaint, it is found that the suit is manifestly vexatious and meritless in the sense of not disclosing any right to sue, the court should exercise power under Order VII Rule 11, CPC. Since the power conferred on the Court to terminate civil action at the threshold is drastic, the conditions enumerated under Order VII Rule 11 of CPC to the exercise of power of rejection of plaint have to be strictly adhered to. The averments of the plaint have to be read as a whole to find out whether the averments disclose a cause of action or whether the suit is barred by any law. It is needless to observe that the question as to

> whether the suit is barred by any law, would always depend upon the facts and circumstances of each case. The averments in the written statement as well as the contentions of the defendant are wholly immaterial while considering the prayer of the defendant for rejection of the plaint....."

10.3 In ***Shakti Bhog Food Industries Ltd. v. Central Bank of India,*** (2020) 17 SCC 260 held as under:

> "22. It is well-established position that the cause of action for filing a suit would consist of bundle of facts. Further, the factum of the suit being barred by limitation, ordinarily, would be a mixed question of fact and law. Even for that reason, invoking Order 7 Rule 11 CPC is ruled out…."
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> (emphasis supplied)

11. In the case in hand, the nature of the account maintained between the parties needs consideration and adducing of evidence, so does the effect of the payments made during the financial years 2017-18 and 2018-19. By issuing of C-form under the CST Act the respondent admits the transaction, its effect *vis-à-vis* acknowledgement of the debt is a question needing consideration in the facts and circumstances of the case and on the evidence adduced.

12. The orders passed by the Supreme Court in ***In Re: Cognizance for Extension of Limitation,*** Suo Motu Writ Petition (C) No.3 of 2020 are to be factored in while considering the issue of limitation.

13. The commercial court exceeded its jurisdiction under Order VII Rule 11 CPC in determining the nature of the account and in holding that the issuance of C-form is not an admission of liability and is only for the purpose of government taxes and does not extend limitation

under Section 18 of the Limitation Act, 1963 (hereinafter '1963 Act'). The C-form issued under the CST Act is to certify a transaction between the registered dealers and contains the particulars of the goods purchased. The effect of the C-form *vis-à-vis* Section 18 of 1963 Act dealing with the effect of acknowledgement in writing is a complicated question and could not have been decided under Order VII Rule 11 CPC.

14. The contention of learned counsel for the respondents that there was no evidence to support the acknowledgment of debt as required under Section 18 of 1963 Act is noted to be rejected. The stage of substantiating the pleadings made in the suit had not reached. Moreover, the court had to restrict itself only to the pleadings in the plaint and not to test their truthfulness at this stage.

15. In view of the above discussion, the appeal is allowed and the impugned order is set aside.

AVNEESH JHINGAN, J

SHAIL JAIN, J

SEPTEMBER 30, 2026
Ch

Reportable: **Yes**

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