



RSA-1356-1989 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**RSA-1356-1989 (O&M)
Reserved on:-24.09.2025
Date of Decision : 26.09.2025**

M/s Reliable Agro Engineering Services Pvt. Ltd Appellant

VERSUS

Tarsem Singh (since deceased) through LR Respondent

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Rohit Sud, Advocate and
Mr. Sameesh Bassi, Advocate for the appellant.

Respondent was proceeded ex-parte
Vide order dated 17.09.2025

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MANDEEP PANNU, J.

1. The present Regular Second Appeal has been filed by the appellant—plaintiff, Reliable Agro Engineering Services Pvt. Ltd., assailing the judgment and decree dated 10.08.1988 passed by the learned lower appellate Court whereby the judgment and decree dated 15.04.1987 of the learned Sub Judge, Jalandhar, decreeing the suit of the plaintiff, has been reversed.

Brief Facts

2. The brief facts necessary for adjudication are that the appellant—plaintiff, a duly incorporated company through its Managing Director Shri Balbir Raj Sondhi, instituted the present suit on 17.07.1984 for recovery of a sum of ₹57,311.05 comprising ₹34,971.05 as balance principal amount and ₹22,340/- towards interest and extension charges at the agreed rate of 18% per annum. The

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plaintiff's case is that the defendant–respondent had purchased on credit tyres, tubes and flaps worth ₹2,62,351.05 during the period 23.12.1980 to 07.02.1984. Out of this, the defendant had admittedly made part payments totaling ₹2,27,380/-, leaving the aforesaid balance. Despite service of legal notice, the defendant failed to pay the outstanding amount, leading to institution of the suit.

3. The defendant, while admitting that goods worth ₹2,27,380/- were purchased, took the stand that the entire liability stood discharged by making full payment and, therefore, nothing remained due.

4. On the pleadings of the parties, the trial Court framed the necessary issues, including Issue No.5 relating to limitation. The issues framed by the trial Court are as under:-

1. Whether the plaintiff is a duly incorporated Co.?OPP
 2. Whether Balbir Raj Sondhi is duly authorized to institute the suit by the plaintiff? OPP
 3. Whether the defendant purchased the goods of the value of ₹2,62,351.05? OPP
 4. Whether the plaintiff is entitled to interest. If so, at what rate?
OPD
 5. Whether the suit is barred by time? OPD
 6. If issue No.2 is proved, whether the plaint is not duly verified and signed? OPD
 7. Relief.
5. Parties have led their evidence in support of their case.

**Findings of the trial Court**

6. On appreciation of evidence, the trial Court held that the last payment made by the defendant was in March 1983 as reflected in Ex.P42, and therefore the limitation would start from the said date. Since the suit had been filed on 17.07.1984, it was held to be within limitation. Consequently, the suit was decreed in favour of the plaintiff for recovery of ₹34,971.05 with interest.

Findings of the lower appellate Court

7. Aggrieved, the defendant preferred an appeal. The learned lower appellate Court reversed the findings of the trial Court holding that the present was a case of successive supplies of goods on credit and, therefore, Article 14 of the Limitation Act, 1963, corresponding to Article 52 of the 1988 Act, would apply. It held that limitation of three years for recovery of price of goods sold and delivered begins to run from the date of each delivery and not from the last payment. The lower appellate Court found that only goods worth ₹1,26,176/- had been supplied within the three years preceding the filing of the suit and that against this, the defendant had made payments of ₹1,49,390/-. Thus, no liability subsisted. The suit was, therefore, dismissed as barred by limitation.

8. Feeling aggrieved, the appellant-plaintiff has preferred the present Regular Second Appeal.

Submissions of learned counsel for the appellant

9. In the present second appeal, it has been argued on behalf of the appellant that the lower appellate Court has erred in law in applying Article 14 of the Limitation Act inasmuch as the dealings between the parties were in the nature of a running and mutual open account and not mere isolated supplies. It is further



contended that in terms of Sections 59 to 61 of the Contract Act, it was open to the creditor to adjust the payments made by the debtor towards outstanding bills and, therefore, the date of last payment, i.e. March 1983, ought to be treated as the starting point of limitation. Reliance has been placed on the judgment of this Court in *M/s Singh Steel Sales v. M/s Manjit Machinery Works, 2018(3) PLR 527*, wherein it was held that in case of running and continuous account between the parties, Article 1 of the Schedule to the Limitation Act would apply and limitation would commence from the close of the financial year in which the last item was entered.

Findings

10. Having considered the submissions made by the learned counsel for the appellant, this Court is of the opinion that the question of limitation assumes importance in the present appeal. The pleadings in para 6 of the plaint clearly state that the cause of action arose from the purchase of goods. The plaintiff's own case is that the defendant had been purchasing goods on different occasions from December 1980 to February 1984. There is no plea or proof of any mutual, reciprocal dealings between the parties so as to constitute a mutual open and current account. The entries relied upon in Ex.P42 and Ex.P43 are unilateral statements of account maintained by the plaintiff-company and do not reflect any debit or credit entries arising out of reciprocal obligations. In such circumstances, the case is squarely covered by Article 14 of the Limitation Act which prescribes a period of three years from the date of delivery of goods.

11. The reliance placed on *M/s Singh Steel Sales's case (supra)* is clearly distinguishable. In that case, the Court found on facts that there was a mutual open



and current account between the parties which was subject to regular entries of debits and credits arising out of reciprocal dealings, thereby attracting Article 1 of the Limitation Act. In the present case, there is no evidence to show that the account was mutual or open in nature. Rather, it is a case of successive sales made by the plaintiff-company on credit. Therefore, Article 14 would apply and not Article 1.

12. As regards the argument based on Sections 59 to 61 of the Contract Act, it is true that when a debtor makes a payment without specifying the particular debt to which it should be appropriated, the creditor has the discretion to adjust such payment to any lawful debt due. However, this principle does not extend or enlarge the statutory period of limitation. The appropriation of payments may determine which particular debt stands discharged, but it does not alter the fact that limitation for recovery of the price of goods sold and delivered begins from the date of their delivery. Therefore, even if the plaintiff had discretion to appropriate payments towards earlier debts, the claim for recovery of the price of goods supplied beyond three years of the suit remains barred under Article 14. The argument based on Sections 59–61 of the Contract Act, thus, cannot come to the aid of the appellant.

13. Viewed thus, the finding of the lower appellate Court that only such claims which relate to deliveries within three years of the institution of the suit would be within time is unexceptionable. Since the payments made by the defendant within the said period exceeded the value of the goods supplied, no liability survives against him. The trial Court fell in error in extending the limitation from the date of last payment.



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Conclusion

14. Accordingly, this Court finds no error in the judgment and decree dated 10.08.1988 passed by the lower appellate Court. The appeal is devoid of merit and is hereby dismissed.

15. Pending application(s), if any, also stands disposed of.

September 26, 2025
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes.