



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

COMMERCIAL APPEAL NO. 11 OF 2026

BETWEEN:

1. M/S MANGALORE MINERALS PVT LTD.,
REGISTERED COMPANY
REP. BY ITS M.D.
MR. SANTHOSH S. MENDON
AGED ABOUT 52 YEARS
HAVING ITS HEAD OFFICE AT:
MINERAL HOUSE
HAMPANKATTA
MANGALORE

...APPELLANT

(BY SRI RANJAN KUMAR K., ADVOCATE)

AND:

1. MANGALORE MINERAL TRANSPORT
REP. BY ITS PROPRIETOR
MRS. RAMA S. MENDON
AGED ABOUT 74 YEARS
"ASHA NIVAS"
MATADAKANI ROAD
URVA, MANGALORE

...RESPONDENT

Digitally
signed by K
P SWETHA
Location:
High Court
of Karnataka



THIS COMMERCIAL APPEAL IS FILED UNDER SECTION 13 (1-A) OF COMMERCIAL COURTS ACT, 2015 PRAYING TO SET ASIDE THE JUDGMENT AND DECREE DATED 30.08.2025 PASSED IN COMMERCIAL O.S. NO.58/2024 ON THE FILE OF THE IV ADDITIONAL DISTRICT JUDGE AND COMMERCIAL COURT, D.K. MANGALURU, AND REMAND THE MATTER BACK TO THE COMMERCIAL COURT, D.K.MANGALURU FOR ADJUDICATION ON MERITS & ETC.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellant has filed the present application, I.A.No.1/2026, seeking condonation of the delay of 37 days in filing the present appeal.

2. Although the delay is not long, there is no credible explanation for it. In the affidavit filed in support of the application for condonation of delay, the appellant acknowledges that the impugned judgment was passed by the learned IV Additional District Judge and Commercial Court, D.K.Mangaluru [**Commercial**



Court] on 30.08.2025, and the appeal was required to be filed within the period of 60 days.

3. The only reason, as set out in the affidavit, to explain the sufficient cause that prevented the appellant from filing the appeal within the stipulated period is that the appellant company had to coordinate between its head office in Mangaluru and its legal counsel in Bengaluru to compile extensive records of the commercial running account. The appellant did not file any records along with the present appeal. It did not even file the statement of accounts on which its claim was premised.

4. When we consider that the only issue involved in the appeal is whether the suit was filed within the period of limitation and the only document relied upon by the appellant is the ledger account of the respondent, which was produced before the learned Commercial Court, the explanation the appellant required to coordinate between its Head Office at Mangaluru and Bengaluru to compile extensive records is insubstantial to say the least.

5. The affidavit in support of the application seeking condonation of delay is affirmed by the Managing Director of the



appellant company. He seeks to explain the delay after the stipulated period has expired. He states that in the month of November 2025, he was suffering from severe viral fever and was advised bed rest. This prevented him from travelling to Bengaluru to sign the appeal memorandum and verify the pleadings in a timely manner. He states that the appeal papers were sent to Mangaluru for his signature, which took time. This explanation is also of little value. First, the appellant is a company. It was open for the Board of Directors of the appellant to authorise any person who was available at the material time to sign the papers. Second, no specific dates are given for when the Managing Director of the Company fell ill and when he recovered. No material is furnished to substantiate that he was unwell and was under medical advice to take bed rest. Third, the time required to send the documents to Mangaluru and back does not justify a period of 37 days. The application does not set out any credible grounds, which prevented it from filing the appeal within time. Given the legislative intent to stipulate fixed timelines in matters relating to commercial disputes, it would not be open for this Court to condone a delay for which no sufficient cause is provided.



6. In view of the above, the present application is liable to be dismissed. In view of our conclusion, it is not necessary to consider the merits of the present appeal. However, we have also examined the appeal on merits.

7. The appellant has filed the present appeal challenging the judgment and decree dated 30.08.2025 passed by the learned Commercial Court in Com. O.S.No.58/2024 rejecting the suit as barred by limitation.

8. The appellant had filed the said suit seeking recovery of an amount of ₹1,32,76,948/- along with interest at the rate of 12% p.a. from 01.04.2023.

9. The appellant claimed that it was engaged in the business of supplying washed silica sand to foundries throughout India. The appellant stated that some of the purchasers had entered into contracts with the respondent, the sole proprietorship, Mrs Rama S. Mendon. The appellant claimed that the respondent used to borrow funds from the appellant to pay transporters for transporting silica sand to certain entities. The appellant claimed that, as and



when amounts were received from the purchasers, the respondent would return/reimburse the amounts due to the appellant. Additionally, the appellant claimed that it advanced funds from time to time, as required by the respondent, for the repair and maintenance of the cargo vessels. The respondent would repay the same as and when the funds were available.

10. It is also relevant to note that the parties are related. The appellant is a closely held company and the majority of its shares are held by members of the Mendon family. The proprietor of the respondent, Mrs Rama S. Mendon, is the mother of the Managing Director of the appellant company, who pursued the suit as well as the present appeal.

11. The respondent filed a written statement stating that all the transactions were carried out by her deceased husband. She stated that her husband was not only managing the appellant company but also her sole proprietorship business. She denied that any amounts were owed by her to the appellant and claimed that the same were only entries against the amounts owed by the appellant to other family members.



12. On the basis of the pleadings, the learned Commercial Court framed several issues including whether the suit was filed within the period of limitation. The said issue was considered as a preliminary issue. The learned commercial court decided the said issue in favour of the respondent on the basis of the averments made in the plaint.

13. The appellant had, in respect to the cause of action, pleaded as under:

"The cause of action for the suit arose on 17.07.2020, when the running account of the defendant was closed and also on 06.04.2023, the date of demand notice addressed to the defendant by plaintiff, subsequently at Mangalore, where the transactions between the parties have taken place, within the jurisdiction of this Hon'ble Court."

14. The appellant had claimed recovery of the amounts allegedly advanced to the respondent, which remained outstanding as on 17.07.2020. There is a dispute over whether the account maintained by the parties for their transactions was a running account, as claimed. However, even if the averments made in the plaint are accepted as correct, the appellant had closed the running



account on 17.07.2020. Therefore, the running account ceased to be operative with effect from 17.07.2020.

15. The appellant had issued a Demand Notice dated 06.04.2023. However, the respondent had disputed the same. She also claimed that she was a lifetime Director of the appellant company and her son, who is also one of the Directors of the appellant, had misused the name of the appellant company and had filed the suit.

16. The learned counsel for the appellant states that the respondent had received the notice dated 06.04.2023 and denied that any amounts were owed and payable by the respondent.

17. Concededly, the issuance of notice does not extend the limitation period for filing the suit for recovery of money. The learned counsel for the appellant argues that the suit was filed within the limitation period solely on the premise that the parties maintained a running account and a sum of ₹97,59,676/- was outstanding as on 17.07.2020.



18. In the given facts, the learned Commercial Court found that, since the suit was filed beyond the three-year period from 17.07.2020, it was barred by limitation. The court held that the suit for recovery of money had to be filed within three years from the date the amount was lent or became due.

19. The appellant does not dispute that if the date of the cause of action is accepted as 17.07.2020, the suit would be barred by limitation. However, it is contended that, since the appellant had maintained a running account, the period within which the action for recovery could be instituted is three years from the end of the financial year, that is, from 31.03.2021. Since the suit was filed on 09.02.2024, which was within the said period of three years from 31.03.2021, it was within limitation.

20. The learned counsel to the appellant referred to Article 1 of the Schedule of the Limitation Act, 1963, [**Limitation Act**] which reads as under:

1.	For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties	Three years	The close of the year in which the last item admitted or proved is entered in the account; such year to be computed as in the account.
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21. Before proceeding to address the said contention, it is relevant to note that no such defence was raised by the appellant before the learned Commercial Court. The learned counsel for the appellant fairly states that this contention is urged for the first time as a ground in the present appeal.

22. Apart from the fact that the appellant did not raise any such ground as a defence to the issue of limitation, we find that it is also without merit. This is because the appellant's case is that the running account stood closed as on 17.07.2020. The said account was no longer an open and current account, after the said date. In view of the said averment in the plaint, Article 1 of the Schedule to the Limitation Act is not applicable.

23. The learned counsel for the appellant has also handed over a copy of the ledger account relied upon by the appellant to pursue its claim.

24. A factual examination of the said ledger account indicates that there is only one entry in the account after 31.03.2020. The said entry, which relates to an adjustment of interest of ₹6,757/-, was made on 17.07.2020. It is doubtful whether the appellant could



extend the period of limitation by making a self-serving entry in its ledger account. However, it is not necessary to examine this aspect as the statement of accounts also indicates that the account stood closed on 17.07.2020, which is in conformity with the pleadings in the suit.

25. In view of the above, we find no infirmity with the conclusion of the learned Commercial Court that the suit filed by the appellant was beyond the period of limitation.

26. The present appeal is dismissed both on the ground of delay as well as on the merits.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**

KPS,
List No.: 2 SI No.: 5