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

% *Date of Decision : 24.07.2026*

+ **FAO (COMM) 200/2026**

**M/S OMAULI AGRO EXPORTS AND ANR** .....Appellants

Through: **Mr. K.K. Aggarwal and Ms. Gayatri Aggarwal, Advs.**

versus

**M/S SMALL FARMERS AGRI BUSINESS  
CONSORTIUM**

.....Respondent

Through: **None.**

**CORAM:**

**HON'BLE MR. JUSTICE V. KAMESWAR RAO**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

**V. KAMESWAR RAO, J. (ORAL)**

**CM APPL. 47310/2026 (Exemption)**

1. Allowed, subject to just exceptions.
2. The application is disposed of.

**FAO (COMM) 200/2026**

3. This appeal lays a challenge to the order of the learned District Judge, Commercial Court-02, South District, Saket, New Delhi dated 07.04.2026 whereby the learned District Judge has dismissed the challenge of the appellants to the arbitral award dated 06.05.2025 passed by the learned Sole Arbitrator.
4. Some of the facts, which need to be noted for the purpose of this appeal are that the appellant herein, a proprietary concern, has established a



business of exports of grapes from Village Astha, District Latur, Maharashtra. In the course of exports of grapes business, the appellant required to build a cold storage unit and for this purpose borrowed a loan amount of Rs. 1 crore (approx.) from the Bank of Maharashtra, which was a term loan and it could not be repaid as scheduled.

5. The respondent/Small Agri Business Consortium (“SFAC”) is a society under Department of Agriculture and Cooperation, Ministry of Agriculture, Government of India established with an object to provide Venture Capital Assistance, mainly provides financial assistance in addition to loan sanctioned by Nationalised Bank, which is the lending bank. On the request of the appellant, the respondent entered into an agreement dated 25.08.2006 with the appellant for providing Venture Capital Assistance (“VCA”) to the appellant for an amount of Rs. 23.71 lacs for establishing an agribusiness project for grading, packaging, pre-cooling, cold storage and export facility of agriculture produce for which term loan was provided.

6. The VCA was to automatically get converted into a loan from the date the lending bank would have recovered the term loan provided to the appellant, or on the end date of term loan whichever was earlier. The converted loan would remain secured by creation of charge in favour of SFAC on the project assets previously held by the lending bank and till such time as the converted loan with interest accrued to SFAC was repaid. In the eventuality, the borrower i.e., appellant was unable to repay the outstanding liabilities to SFAC and if there was a dispute concerning the agreement, the dispute was to be referred for adjudication through arbitration to the Indian Council of Arbitration, New Delhi.



7. On 17.09.2015, the respondent initiated arbitral proceedings against the appellant as the appellant had not repaid the bank term loan, hence the claim of respondent was rejected as being premature. There is no dispute that the appellant had repaid the term loan of Bank of Maharashtra on 04.04.2018. The arbitral proceedings were filed on 30.04.2024. The award of the learned Arbitrator was challenged by the appellant on the ground that the bank did not supply the yearly balance sheets for each year. Hence, the cause of action cannot be said to have begun on 04.04.2018, but rather the cause of action began when the statement of defence was filed by the appellant on 12.02.2025 before the learned Arbitrator. It was also stated that the limitation was not contingent on the fulfillment of the covenant by the appellant whether he has given the statement to the bank or not. It was also stated that the award is liable to be set aside in as much as the respondent/claimant has failed to comply with mandatory provisions of service of notice under Section 21 of the Arbitration and Conciliation Act, 1996.

8. In substance, the case of the appellant was that the term loan of the lending bank having been repaid by the appellant on 04.04.2018 and the cause of action to file the arbitration proceedings is 3 years from the date of repayment of the term loan of lending bank by respondent, which period expired on 03.04.2021 the claim petition was barred by time. The case of the respondent before the learned District Judge which is summed up in paragraph 11 is reproduced as under:-

*“11. Reply to the petition was filed by respondent. It is stated that it is an admitted fact that the repayment of term loan of the lending bank was done on 04.04.2018.*



*The petitioner had an opportunity to repay the VCA if it was not paid immediately after repayment of the term loan when it was converted into loan within one year i.e by 04.04.2019. Therefore, the cause of action would arise after expiry of one year from 05.04.2018 i.e on 04.04.2019. It is stated that issue of limitation was discussed in detail by Ld. Arbitrator in para no. 15 to 22 of the Award. It is stated that petitioner hid the fact of repayment of term loan to the lending bank on 04.04.2018. Respondent was bound by the agreement to let the respondent know the date of repayment of term loan of lending bank. Had the petitioner submitted the balance sheet to the respondent every year, the respondent would have known the repayment of term loan from the balance sheet. Respondent came to know about repayment of term loan when petitioner filed his statement of defence on 12.02.2025 hence, cause of action for respondent continued from 05.04.2018 till 12.02.2025. It is stated that lending bank is not a party to the agreement dt.25.08.2006 which was executed solely between petitioner and respondent. It is well settled legal principle that debtor is required to comply with the demands of creditors which he has failed to do. It is stated that notice dt. 27.04.2024 was sent by counsel of respondent to petitioner through email followed by request letter dt.30.04.2024 to ICA for appointment of an Arbitrator subsequent to invocation of arbitration clause contained in agreement dt, 25.08.2006. It is stated that notice was served to the respondent (petitioner herein) and that too within limitation of three years.”*

9. We note the conclusion is drawn by the learned District Judge in paragraphs 13 to 19 and the same is reproduced as under:-

*“13. It is stated that as per article 137 of Limitation Act the limitation for invocation of arbitration clause was 3 years from the date of cause of action. The*



*petitioner had cleared the term loan of the lending bank on 04.04.2018, whereafter cause of action arose in favour of the respondent. The three years period expired on 03.04.2021. It is stated that even if the benefit of the judgment of Hon'ble Supreme Court in Suo Moto Civil Writ Petition No.03/2020 is given to the respondent, the claim would be barred by limitation. The case of the respondent as also the finding of Ld. Arbitrator in the award is that the petitioner was bound under the agreement to inform the respondent about the closure of term loan. It is stated that the petitioner never informed the respondent about the repayment of loan to the principal bank in 2018 and therefore, the limitation for instituting arbitration could begin only upon respondent's acquiring the knowledge about repayment of loan of the lending bank by the petitioner. The relevant facts in this regard are that the petitioner had taken one loan from the Bank of Maharashtra and VCA of 23 lakhs from the respondent. As per the terms the loan of respondent was to be repaid by the petitioner after it had paid the loan of the bank. Relevantly, the respondent had initiated arbitral proceedings earlier also, which however, were declined on the ground that the cause of action would accrue only after the respondent had cleared the dues of the lending bank. That being so and in terms of clause 10 of the agreement, the onus was on the petitioner to have informed the respondent about the conclusion of bank loan. Admittedly, there was no agreement between the respondent and the lending bank or any other mode through which the respondent could have found as to when the loan was repaid by the petitioner. The petitioner thus was obligated to have informed the respondent about the closure of its loan with the bank and to have started repaying the loan of the respondent. Apparently, the petitioner turned dishonest and did not*



*inform the respondent about the repayment of loan of lending bank and further did not start paying the dues of the respondent. The respondent as it had done earlier again initiated arbitral proceedings and found only after the written statement was filed by respondent that term loan stood concluded. The petitioner therefore, wants a double benefit out of situation, firstly by having avoided the payment at the time of first arbitral proceedings on the ground of it being premature and then on the ground of limitation having expired while remaining dishonest in not disclosing to the respondent as to when the said loan was finally repaid. At the cost of repetition it is to be noted that there was no way with the respondent except for the petitioner's providing the information as per clause 10 of the agreement, which the petitioner did not do, to have found the date on which the term loan stood paid. The respondent otherwise could have tried to find the same by trial and error method by having instituted the arbitration proceedings which it did twice.*

*14. It has been argued that limitation was not contingent on the fulfillment of covenant of the petitioner whether he has given the statement to the bank or not. The petitioner, however, has not been able to explain as to how in absence of this the respondent was supposed to know as to when the petitioner had cleared the loan. It is not the case of petitioner that it had provided such documents at any point of time to the respondent from which the respondent could have found as to when the loan of the petitioner would stand repaid finally. If the term of the payment itself was that it will become due after the petitioner had repaid the loan of lead bank, it was only for the petitioner to have disclosed to the respondent that it had repaid the loan actually by submitting the regular statements of account and not the respondent to have followed with the lending bank, which in any case was not obligated to inform to the respondent anything. There was thus*



*only one way with the respondent to have come to know about this fact which was through petitioner and the petitioner cannot be allowed to take benefit of its own wrong in having not informed to the respondent about the repayment of loan of lead bank and then trying to say that petition was time barred. There is nothing wrong with the reasoning of Ld. Arbitrator having been given on the issue of limitation warranting intervention of the court under section 34 of the Arbitration & Conciliation Act.*

*15. The petitioner is challenging the notice u/s.21 given by the respondent for appointment of arbitrator. Petitioner has placed reliance on the judgment of Hon'ble Delhi High Court in Amit Guglani Vs. L & T Housing Finance Ltd. through Managing Director (Del) 2023 Lawpack (Del) 96149. The said order was passed in a petition u/s. 11 (6) of the Act filed for appointment of the arbitrator. It was while considering the plea of appointment of arbitrator that the court held that the notice given before initiation of arbitration was not proper, Same was the finding in the other judgment relied by the petitioner being M/s. D.P. Construction Vs. M/s. Vishvaraj Environment Pvt. Ltd., 2022 SCC Online Bom. 1410. The notice in the said case said that the party shall be constrained to such redressal of his grievance by approaching the competent court of law (sic).*

*16. Per contra, in the instant matter the arbitrator was appointed by Indian Council of Arbitration after the issuance of notice by the respondent to the petitioner. Ld. Arbitrator dealt with the argument of petitioner. Ld. Arbitrator quoted from the notice sent through email dt.27.04.2024, wherein there was specific reference for initiation of arbitration proceedings. The arbitrator wrote in the conclusion that there was nothing wrong in respondent having approached ICA after issuance of this notice. In Amit Guglani (Supra) there was no mention about the arbitration clause or*



*for reference of matter to the arbitrator. Similarly in D.P. Construction (supra) the notice did not mention anything about the arbitration or reference of matter to the arbitrator. The respondent on the contrary had given the notice to the petitioner stating therein... "failing which I have clear instruction from my client to initiate arbitration proceedings before Indian Council of Arbitration..." The notice therefore, was clear about the intent of respondent for going to the arbitration. The judgments do not apply to the facts of the case and there is nothing wrong in the findings of Ld. Arbitrator.*

*17. In UHL Power Company Ltd vs State of HP (2022) 4 SCC 116, Hon'ble Supreme Court held as under:*

*"As it is, the jurisdiction conferred on Courts u/s 34 of Arbitration Act is fairly narrow, when it comes to the scope of an appeal u/s 37 of the Arbitration Act, the jurisdiction of an appellate Court in examining and order, setting aside or refusing to set aside an award, is all the more circumscribed."*

*18. The Hon'ble Delhi High Court in Ircon International Ltd vs Afcons Infrastructure Limited 2023 SCC Online Del. 2350 held that,*

*"patent illegality warranting setting aside of award should be such illegality or deficiencies at the face of award and/ or shock the conscience of the Court in order for it to qualify to be set aside by this Court.*

*19. In view of above discussion and the authoritatively settled law regarding limited scope of intervention in the petition u/s. 34 Arbitration & Conciliation Act, there is no perversity on the face of the award warranting interference by this court. There is no merit in the case. The petition is dismissed. File be consigned to record room."*

10. The submissions of learned counsel for the appellant before us are



primarily a reiteration of the stand taken by the appellant herein before the learned District Judge.

11. Suffice to state, in terms of Clause 10, the onus was on the appellant to inform the respondent about the repayment of bank loan to the Bank of Maharashtra.

12. The plea of learned counsel for the appellants, that it is incumbent upon the respondent to ask from the appellants as to whether the appellants had paid the loan to the lending bank, cannot be accepted. It is clear, there was no intention on the part of the appellants to repay the same. The factum of loan having been repaid to the Bank of Maharashtra in the year 2018 could only result in the filing of claim in the year 2024.

13. It may be stated here a claim was filed which resulted in the award dated 13.06.2016 of the learned Arbitrator, whereby the claim of the respondent was dismissed as pre-mature since the appellant had not repaid the loan to Bank of Maharashtra, which was a pre-condition for the appellants to discharge its liability towards the respondent. The same was finally decided on 13.12.2021 on a challenge whereas the proceedings herein were initiated by the appellant on 30.04.2024 and hence, in that sense, the proceedings were within limitation of three years.

14. Hence, we find that the stand taken by the appellants on the issue of limitation was totally misconceived and only taken to escape the liability of repaying the loan to the respondent. In the facts of this case, we are convinced that the learned District Judge *vide* the impugned judgment dated 07.04.2026 is justified in dismissing the challenge to the arbitral award dated 06.05.2025.



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15. This appeal being devoid of merits is accordingly dismissed.

**V. KAMESWAR RAO, J**

**MANMEET PRITAM SINGH ARORA, J**

**JULY 24, 2026/sr**