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

Date of decision: 13th OCTOBER, 2026

IN THE MATTER OF:

CNR No. DLHC010397102026

+ **O.M.P.(I) (COMM.) 362/2026 & I.A. 23194/2026**

SUMRIDHI ALUMINIUM PVT LTD

.....Petitioner

Through: Mr. Prashant Mehta, Sr. Advocate
with and Mr. Aaryav Mehra,
Advocate.

versus

IMR COMMODITIES DMCC

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The present petition has been filed under Section 9 of the Arbitration and Conciliation Act, 1996, (*herein referred to as the "Act"*) for restraining the Respondent from selling, alienating, or creating third party rights over the consignment of 60.040 MT of aluminium scrap lying at ICD Palwal and over the balance contracted material.

2. Shorn of unnecessary details, facts in brief leading to the filing of the present petition are as under:

- a. The Petitioner, Sumridhi Aluminium Private Limited is an Indian private limited company incorporated under the Companies Act, 1956 having its registered and corporate offices in East of Kailash, New Delhi, and two manufacturing units in Haryana (Unit I at Village Bhagola, District Palwal, and Unit II at IMT Bawal). It is



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- a user, importer, and recycler of non-ferrous metal scrap, primarily aluminium scrap.
- b. The Respondent herein, IMR Commodities DMCC, is a foreign commodity supplier registered under the laws of the United Arab Emirates (UAE) with its registered office in Dubai. It operates an India liaison or representative office in Sector 56, Gurugram, Haryana. In negotiating and administering these contracts, the Respondent acted as a single economic unit in coordination with its sister concerns, IMR Commodities FZCO and IMR Metallurgical Resources AG.
- c. Between 14.02.2026 and 19.03.2026, the Petitioner and the Respondent entered into three separate Cost, Insurance, and Freight (CIF) contracts for a total supply of 530 Metric Tons (MT) of Shredded Aluminium Scrap Taint Tabor conforming to ISRI specifications. It is stated that contracts were negotiated, concluded, and paid for through HDFC Bank in New Delhi.
- d. It is the case of the Petitioner that over six months, the Respondent consistently failed to adhere to the 30-day shipment timelines, delivering only delayed and piecemeal tranches. Under the first contract, no material was supplied within the contractual window; under the second contract, only 60 MT was delivered, leaving 90 MT pending; and under the third contract, only 80 MT was delivered in two late tranches, leaving 100 MT pending. Across all three contracts, the Respondent only delivered 140.560 MT out of 530 MT, leaving 389.54 MT outstanding.
- e. It is stated that the Petitioner operated manufacturing furnaces on a continuous cycle and had firm, binding supply commitments



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- with its downstream buyers. The Respondent's failure to deliver feedstock threatened factory shutdowns, forcing the Petitioner to make emergency risk purchases in the domestic Indian market at higher prevailing prices.
- f. Between 07.05.2026 and 04.05.2025, the Petitioner executed risk purchases of 3,32,398 kg of aluminium scrap across 29 independent tax invoices from 9 independent domestic suppliers.
- g. In June 2026, driven by a sharp upward spike in the international market for aluminium scrap, the Respondent initiated price renegotiations for the outstanding balances under the three contracts. The Respondent proposed upward price revisions of USD 2,450, USD 2,470, and USD 2,550 per MT for Contracts 1, 2, and 3, respectively. The Petitioner counter-offered revised rates of USD 2,400 per MT for the first two contracts and USD 2,500 per MT for the third. Subsequently, the Respondent delivered an unconditional written acceptance establishing a binding contract novation as to price. This novation was subsequently cemented by conduct when the Respondent shipped a consignment of 60.040 MT on 27.06.2026 at precisely the novated rate of USD 2,400 per MT, rather than the original contract price of USD 2,200 or its first demanded increase.
- h. The novated consignment of 60.040 MT arrived at Mundra Port and was subsequently moved to its Place of Delivery at ICD Palwal, Haryana, on 07.08.2026. It is stated that this consignment was valued at INR 1,37,49,640/-
- i. While the goods arrived at Palwal, the Respondent held the original negotiable Bills of Lading and refused to release them or



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- clear the cargo unless the Petitioner paid INR 1,37,49,640/- directly. The Petitioner, on the other hand was ready to take delivery but insisted on setting off the cargo price against its accrued, documented risk purchase loss of ₹2,07,12,541/-. Such adjustment would have left the Respondent owing the Petitioner ₹69,62,901/-
- j. It is stated that the Respondent has threatened via WhatsApp and emails to sell the consignment to a third party unless paid in cash. The Petitioner apprehends that loose scrap has been trapped in sea containers through the Indian monsoon, making it susceptible to moisture, oxidation, corrosion, and contamination, which threatens to degrade the ISRI specification beyond recovery. Simultaneously, ground rent, storage charges, and Hapag-Lloyd shipping line detention/demurrage fees mounted heavily against the containers.
3. To protect itself from physical decay, mounting demurrage, and complete frustration of arbitral enforcement, the Petitioner has preferred this present petition with the following prayers:

“(a) pass an order of ad-interim and interim injunction restraining the Respondent, its directors, officers, servants, agents, nominees, assigns and all persons claiming through or under it from selling, transferring, alienating, encumbering, removing, re-exporting, transshipping, parting with possession of, or in any manner creating any third-party rights in, the consignment of 60.040 MT of Shredded Aluminium Scrap Taint Tabor covered by Bill of Lading No. HLCULIV2606RBVY7 dated 27.06.2026 and Commercial Invoice No. IMRC/26-27/0094 dated 27.06.2026, comprised in three 40' Dry HC containers bearing Nos. FCIU7617519, HAMU1216149 and



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CAAU9329341, presently lying at ICD Palwal, Haryana;

(b) permit the Petitioner to take delivery of the said consignment of 60.040 MT, and consequentially direct the Respondent to endorse, release and deliver to the Petitioner the full set of original negotiable shipping documents in respect of the said consignment within such time as this Hon'ble Court may fix, and on such terms and conditions as this Hon'ble Court may deem appropriate to the facts and circumstances of the present case and in default thereof authorise the Registrar General of this Hon'ble Court to do so on the Respondent's behalf and/or direct the concerned custodian and shipping line to deliver the said three containers to the Petitioner against production of a certified copy of the order of this Hon'ble Court;

(c) pass an order of ad-interim and interim injunction restraining the Respondent, its directors, officers, servants, agents, nominees, assigns and all persons claiming through or under it from diverting, appropriating elsewhere, selling to any third party, or creating any third-party rights in, the balance contracted material under the three contracts as novated, aggregating 330 MT and valued at ₹7,65,26,840/-, and from dealing with the said balance material otherwise than by shipment and delivery to the Petitioner in terms of the said contracts;

(d) direct the Respondent, to furnish security to the satisfaction of the Registrar General of this Hon'ble Court, by way of an unconditional and irrevocable bank guarantee of a scheduled commercial bank in India or by way of deposit in this Hon'ble Court, in the sum of ₹2,07,12,541/- (Rupees Two Crore Seven Lakh Twelve Thousand Five Hundred Forty-One only), representing the Petitioner's accrued and quantified risk purchase damages, provided that to the extent the invoice value of the 60.040 MT consignment stands



adjusted against the said claim under Prayer (b) above, the security directed under this prayer shall stand reduced pro tanto; and in default thereof direct attachment of such of the assets of the Respondent within India as may be sufficient to answer the said sum;

(e) direct the Respondent to disclose on affidavit, within such time as this Hon'ble Court may fix, full and complete particulars of all their assets within India, including bank accounts, goods in transit, goods lying at any port, container freight station or inland container depot, and receivables from Indian buyers;

(f) direct the concerned Custodian of ICD Palwal, the concerned Commissioner of Customs and the concerned shipping line and its agents, namely Hapag-Lloyd, not to permit the sale, clearance, removal, re-export or transshipment of the said three containers to or at the instance of any person other than the Petitioner, save with the leave of this Hon'ble Court;

(g) direct that the demurrage, detention and ground rent accruing in respect of the said three containers shall, as between the parties and pending the arbitration, be to the account of the Respondent in terms of Clause 3(a) of the General Terms and Conditions dated 11.02.2026, and that any such charges discharged by the Petitioner in order to secure release of the cargo shall be without prejudice to and recoverable in the arbitration;

(h) award to the Petitioner the costs of and incidental to the present Petition; and

(i) pass such other and further order or orders as this Hon'ble Court may deem just, fit and proper in the facts and circumstances of the present case and in the interests of justice."



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4. At this juncture, the only question which arises for consideration before this Court is whether this Court has the territorial jurisdiction to entertain the present petition.

5. It is the specific submission of the Petitioner that this Court has territorial jurisdiction as the entire transaction was rooted in Delhi for every material. It is stated that the Petitioner's registered, corporate, and Head Office is located at East of Kailash, New Delhi, from where the three contracts were negotiated, entered into, modified, administered, and given effect to.

6. It is further stated that all material correspondence of consequence specifically the 18.06.2026 and 22.06.2026 price variation emails on which the plea of contract novation rests was sent from or received at the Petitioner's Delhi email address. It is also their case that the contract price payable to the Respondent was, and remains, payable at Delhi and the payments toward the contractual obligations were remitted from the Petitioner's bank account (Account No. 50200002173752) operated with HDFC Bank, Nehru Place Branch, New Delhi.

7. Conclusively, it is submitted that the Importer-Exporter Code covering these specific shipments was issued to the Petitioner at New Delhi and actual commercial and financial loss resulting from the Respondent's breach was suffered by the Petitioner at Delhi.

8. Heard the learned Counsel for the Petitioner and perused the material on record.

9. It is apposite to mention that the Respondent herein is a foreign commodity supplier registered under the laws of the United Arab Emirates. As the disputes between the parties culminate from a commercial contract entered into between an Indian entity and a foreign entity, therefore, the



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arbitration contemplated between the parties would constitute an International Commercial Arbitration.

10. It is stated that all three contracts shared identical core terms relating to the shipment window, delivery, payment terms, demurrage and detention liability, and Dispute Resolution. For the purpose of adjudicating the present petition, the only clause which is of relevance is the dispute resolution clause entered into between the parties. The dispute resolution clause in all three agreements is identical, and for the purpose of reference, the same is reproduced hereunder:

“13. Arbitration, Jurisdiction and Governing Law

a) The Contract Documents shall be governed by, and construed in accordance with, English laws and English courts shall have exclusive jurisdiction for any dispute arising under the Contract Documents.

b) Any dispute arising out of or in connection with the Contract Documents, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in accordance with the Arbitration Rules of the Singapore International Arbitration Centre (SIAC Rules), which Rules are deemed to be incorporated by reference into this clause. The Tribunal shall consist of a sole arbitrator appointed under the SIAC Rules.

c) The seat and venue of arbitration shall be Singapore. The language of the arbitration shall be English.”

11. The said clause designates the seat and place of arbitration to be in Singapore. In addition, the clause also stipulates a jurisdiction clause which



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authorises the Courts in England to settle all disputes arising between the parties under the contracts.

12. The question which consequently arises is whether, notwithstanding the foreign seat of arbitration, a petition under Section 9 of the Act would be maintainable before an Indian Court and, if so, whether this Court would possess the requisite territorial jurisdiction to entertain the same.

13. A perusal of Section 2(2) of the Act indicates that Part 1 is only applicable in cases where the place of Arbitration is in India. Section 2(2) of the Act is reproduced hereunder:

“Section 2(2) This Part shall apply where the place of arbitration is in India:

[Provided that subject to an agreement to the contrary, the provisions of sections 9, 27 and clause (a) of sub-section (1) and sub-section (3) of section 37 shall also apply to international commercial arbitration, even if the place of arbitration is outside India, and an arbitral award made or to be made in such place is enforceable and recognised under the provisions of Part II of this Act.]”

14. Prior to the 2015 Amendment, the proviso to the above Section 2(2) was absent and it was only after the said amendment that the same has been incorporated within the purview of the section. The effect of inclusion of this proviso is that certain provisions of the Act like Section 9, 27 and 37 now can be availed even in cases of ICAs. However, the ultimatum is that it is subject to an ‘*agreement to the contrary*’.

15. The aforesaid aspect has been elaboratively discussed by a coordinate bench of this Court in Big Charter (P) Ltd. v. Ezen Aviation Pty. Ltd., 2020 SCC OnLine Del 1713 and has been further affirmed by a Division Bench of this Court in Shanghai Electric Group Co. Ltd. v. Reliance Infrastructure



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Ltd., 2024 SCC OnLine Del 1606. The relevant portion of the Big Charter (P) Ltd. (supra) reads as under:

“67. There is yet another way of looking at the issue. What is required, by the proviso to Section 2(2) of the 1996 Act, in order to render the proviso inapplicable in a particular case, is an “agreement to the contrary”. The agreement, which would exclude the application of the proviso to Section 2(2) would, therefore, have to be contrary to the dispensation provided in the proviso, i.e., it would have to be contrary to the applicability, to the proceedings, of Section 9 of the 1996 Act. Expressed otherwise, as the proviso makes Section 9 of the 1996 Act applicable even in the case of foreign seated arbitrations; any “agreement to the contrary” would, therefore, have to expressly stipulate that Section 9 would not apply in that particular case. Absent such a specific stipulation, the beneficial dispensation, contained in the proviso, cannot stand excluded.

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70. Mr. Kamath also sought to emphasise the fact that what was required, by the proviso to Section 2(2), was merely an “agreement to the contrary”, and not an “express agreement to the contrary”, as recommended by the Law Commission in its 246th Report. The argument essentially begs the issue. The question is not whether the agreement to the contrary is express or implied - indeed, it may be either - but whether there is an agreement to the contrary. The expression “subject to any agreement to the contrary” was understood, in Phonogram Ltd. v. Lane, as meaning “unless otherwise agreed”. Read in the context of the proviso to Section 2(2), it would have to be seen whether, by Clause 22.1, the petitioner and the respondent had “otherwise agreed”, i.e. agreed to exclude the applicability of Section 9 of the 1996



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Act. Ex facie, I am unable to convince myself that the answer to this question can be in the affirmative.

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73. Extrapolating this reasoning to Clause 22.1 in the present case, read with the requirement of an “agreement to the contrary”, for the proviso to Section 2(2) to be rendered inapplicable, the mere conferment of exclusive jurisdiction, on courts at Singapore, by Clause 22.1, would not suffice as an “agreement to the contrary”, within the meaning of the proviso to Section 2(2). The agreement would be required to have a specific stipulation that the parties had agreed to exclude the applicability of Section 9 of the 1996 Act to the contract between them, and to disputes arising thereunder. Absent such a specific stipulation, the mere recital, in Clause 22.1, that the parties had agreed to submit themselves to the jurisdiction of Singapore courts, would not suffice as an “agreement to the contrary”, within the meaning of the proviso to Section 2(2) of the 1996 Act.”

16. A perusal of the arbitration clause reveals that the parties have in fact agreed that the Seat and place of arbitration is in Singapore and exclusive jurisdiction has been bestowed upon the English Courts to deal with all issues arising under the contract between the parties. However, for this Court to be devoid of territorial jurisdiction to adjudicate the present petition, the parties need to agree that the jurisdiction of this Court is ousted to entertain a Section 9 Petition.

17. Be that as it may, the same has, at the very least, not been done by a formal written agreement. The same having not been waived, as per the settled law, Indian Courts would have the jurisdiction to entertain the Section 9 Petition. The existence of the goods within India and the immediate necessity of preserving the subject matter of the dispute reinforce



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the jurisdictional relevance of Indian Courts as per the proviso to Section 2(2) of the Act.

18. What further falls for consideration is whether this Court can grant relief to the Petitioner or not. It is not disputed that the subject matter of the interim injunction is itself stationed in Palwal, Haryana. At this juncture, it is also necessary to understand as to what would constitute ‘Court’ for the purpose of Section 9 of the Act. In fact, Section 2(1)(e) unambiguously delineates this scope. The same is reproduced hereunder:

“2(1)(e) “Court” means—

(i) in the case of an arbitration other than international commercial arbitration, the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, but does not include any Civil Court of a grade inferior to such principal Civil Court, or any Court of Small Causes;

(ii) in the case of international commercial arbitration, the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, and in other cases, a High Court having jurisdiction to hear appeals from decrees of courts subordinate to that High Court;”

19. In light of the definition of ‘Court’ enumerated above, the present case is one which falls within the preview of Section 2(1)(e)(ii), since it is an International Commercial Arbitration. The test under Section 2(1)(e) is that whether the ‘court’ would be the Court exercising jurisdiction to decide



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the questions forming the subject matter of the arbitration if the same had been the subject matter of a Suit, or where no High Court exercises such ordinary original civil jurisdiction, the High Court having jurisdiction to hear appeals from decrees of courts subordinate to that High Court. The fact that some payments have been made from Delhi by itself cannot give Jurisdiction to the Courts at Delhi. The second contention of the Petitioner is that the registered office of the Petitioner is located in Delhi. The registered office of the Petitioner is again, of no relevance while deciding the issue of jurisdiction. In fact, what is of more relevance, for the purpose of determining the jurisdiction of a Section 9 Court, is the location of the asset, which is disputed. In fact, a Division Bench of this Court in Shanghai Electric Group Co. Ltd. v. Reliance Infrastructure Ltd., **2024 SCC OnLine Del 1606** has crysallised the position to this effect. Relevant observations are reproduced hereunder:

“23. The first objection raised in that this Court does not have jurisdiction as it is not the proper ‘court’ under Section 2(1)(e) of the Arbitration Act and no cause of action had arisen before this Hon'ble Court.

24. Appellants had filed the Petition under Section 9 seeking interim measures on the ground of location of assets of Reliance Infrastructure in Delhi.

25. The learned Single judge has rejected the objection by holding as under:

*“74. SEGCL contends that the jurisdiction of this Court under Section 9 of the Act can be made out on the basis of the location of assets. **RELIANCE** controverts this on the ground that the same is beyond the provisions of the Act. Even otherwise, it is only in*



very rare circumstances-where an award has already been passed and the intent under Section 9 is to secure its enforcement-that the location of assets has been considered.

75. In the present case, neither has any arbitral award been passed, nor has the question of enforcement arisen; however, this does not mean that a party cannot invoke jurisdiction under Section 9 on the basis of the location of assets.

*76. Further, the legislature has permitted a party holding a foreign award to invoke Section 9 as well as Sections 47 to 49 to enforce a foreign award. For such enforcement, in terms of the explanation to Section 47, a “Court” is defined as having ‘original jurisdiction to decide question(s) forming the subject-matter of an arbitral award, if the same had been the subject-matter of a suit on its original civil jurisdiction. The Bombay High Court in *Trammo DMCC v. Nagarjuna Fertilizers and Chemicals Ltd.*, 2017 SCC OnLine Bom 8676 examined the principle of contextual interpretation under Section 2(l)(e)(ii) to hold that “Court”, as defined in the explanation to Section 47, would be the appropriate court when a petitioner is seeking interim relief(s) under Section 9, pending enforcement of a foreign award, the relevant portion of the said judgment reads as under:*

“19. Now the question remains is ‘whether Section 2(1)(e)(ii) when it defines “court” to mean the High Court having jurisdiction to decide the question forming the subject matter of the arbitration would create any impediment preventing the petitioner to invoke Section 9 before this Court. In my opinion, a cumulative reading of the amended provisions would not create such a hurdle for the petitioner to invoke the jurisdiction of this Court and maintain this petition.



The reason being that Section 2 the definition clause begins with the words “In this Part, unless the context otherwise requires-The definition of “Court” as contained in Section 2(1)(e)(ii), in the present context would create a incongruity to enforce the provisions Section 9 of the Act as made applicable by the 2015 Amendment Act. This inasmuch as the petitioner would be prevented to seek interim measures in enforcing the money award, when the money is lying within the territorial jurisdiction of the Courts only for the reason that it is not the subject matter of arbitration. This is opposed to the plain and clear intention of the legislature as incorporated by the 2015 Amendment Act as noted above. It cannot be conceived that on the one hand the legislature permits a party holding a foreign award to invoke Section 9 of the Act and further permit invoking of the provisions of Sections 47 to 49 of the Act to enforce the foreign awards, and for that matter to approach the appropriate court having jurisdiction to decide the question forming the subject matter of arbitral award, as if the same had been the subject matter of the suit as the explanation to Section 47 would provide. However, on the other hand at the same time, when it comes to adopting proceedings under Section 9 to secure the sums awarded being the money to secure the award is available within the jurisdiction of the Court, it would render the Court lacking such jurisdiction by application of Section 2(1)(e)(ii). This is surely not the intention of the legislature. Any interpretation which would defeat the intention of the legislature is required to be avoided. Thus, in my opinion, considering the amended provisions and in the facts of the present case when the petitioner is holding a foreign award and when the money is available within the jurisdiction of this Court as contained in the Bank accounts of the Respondent at Mumbai, the principles of “contextual interpretation” of Section 2(1)(e)(ii) would be required to be adopted considering the opening words of Section 2(1) “In this Part, unless the context



otherwise requires—” and adverting to this principle of interpretation it would be required to be held that the “Court” as defined under the explanation to Section 47, would be the appropriate court when the petitioner is seeking interim reliefs under Section 9 of the Act pending the enforcement of the foreign award.”

[Emphasis Supplied]

Although in Trammo DMCC, the Section 9 application was filed post-award, its ratio would still be applicable even to a petition that has been filed seeking interim reliefs at the pre-award stage.

77. Thus, in light of the original jurisdiction exercisable by the Court, the location of assets to satisfy the resultant foreign award, can indeed come into play when taking recourse to proceedings under Section 9.”

26. The learned single judge relying upon the judgment in Trammco DMCC (Supra) has held that the location of the asset against which an enforcement is sought would confer jurisdiction to the court within whose territorial jurisdiction the asset is situated.

27. We are in complete agreement with the view taken by the learned single judge that the situs of the asset would be the determinative factor for maintain a petition under Section 9 of the Arbitration Act.”

(emphasis supplied)

20. All the prayers sought for in the present Application under Section 9 of the Act deals with interim protection of the goods by restraining the Respondents from transferring, selling, alienating or creating third party



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rights over the consignment of 60.040 MT of aluminium scrap lying in ICD Palwal or for permitting the Petitioner to take delivery of the consignment. Applying the law laid by the Division Bench of this Court in Shanghai Electric Group (supra), wherein the Division Bench has held that the jurisdiction under Section 9 of the Act would be of that Court where the goods are stationed, it is undisputed that the goods are currently stationed in Palwal, Haryana; and in light of the above settled position, this Court is of the view that this Court, per se, is not the Court of competent jurisdiction considering that the disputed goods are currently stationed in Palwal, Haryana.

21. This Court is, therefore, not inclined to entertain the present petition. The petition is dismissed, along with pending application(s), if any.

22. It is open for the Petitioner to approach the Court of competent jurisdiction in terms of Section 2(1)(e) of the Act.

SUBRAMONIUM PRASAD, J

OCTOBER 13, 2026

VG/hsk