

3 Mr. Mody, counsel for respondent company, at the outset, pointed out before the counsel for petitioner could even address the Court that the petition is grossly barred by limitation.

4 In paragraph 47 of the petition, petitioner has stated “*The petitioner's claim herein is not barred by law of limitation*”. I have considered the petition and the documents annexed thereto. Paragraph 32 of the petition reads as under :

32. The Petitioner states that the Respondent and the said Principal Borrower, on having realized that their liability had crystalized, and having no good tenable defense to the same and with a view to avoid the same, on the one hand kept on negotiating with the Petitioner for settlement, and on the other hand, entered into litigation with the Petitioner, namely Suit No.931 of 2011 filed before the Hon'ble Bombay High Court by Worthington Nitin Cylinders and the Respondent against the Petitioner, and Original Application No.66 of 2011, before the Mumbai Debts Recovery Tribunal I filed by the Petitioner against Worthington Nitin Cylinders and the Respondent. The Petitioner craves leave to refer to and rely upon the papers and proceedings filed in the said Suit No.931 of 2011 and Original Application No.66 of 2011, as and when produced.

5 In the statutory notice, copy whereof is annexed at Exhibit “O” to the petition, in paragraphs 24 and 25, it is petitioner's case that the outstanding amounts due and payable got crystalized on or about 22nd February, 2011. In the original application no.66 of 2011 that petitioner has filed against Worthington Nitin Cylinders and company, in paragraph 5.34, it is averred that applicant bank has a cause of action against defendants and the cause of action arose on 5th January, 2011 and again arose on 7th January, 2011, 11th February, 2011, 18th February, 2011

and 24th February, 2011. Though it is stated that the cause of action is subsisting and continuing in nature, in my view, petitioner having filed the original application, should have filed this petition also within three years of the cause of action arising or atleast within three years of verifying the original application, which is 4th July, 2011. The current petition was lodged only on 16th November, 2015.

6 In view thereof, since it does appear that petitioner's claim could be barred by limitation, petition stands dismissed. It is clarified that this Court has not expressed any opinion on the merits of the case.

(K.R. SHRIRAM, J.)