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

**CR No.7755 of 2016(O&M)
Date of Decision: 17.05.2018**

M/s Centro Combustion Furnaces Pvt. Ltd.

.....Petitioner

Vs

ISGEC Heavy Engineering Limited

....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Manoj Kumar Khurdi, Advocate
for the petitioner.

Mr. Santosh Sharma, Advocate
for the respondent.

RAJ MOHAN SINGH, J. (Oral)

Petitioner has preferred this revision petition against the order dated 18.10.2016 passed by the Civil Judge (SD) Yamuna Nagar whereby an application under Order 6 Rule 17 CPC for amendment of the plaint was allowed.

The suit for mandatory injunction was filed by the plaintiff-respondent directing the defendant to take delivery of roof assembly from the plaintiff-Company, got manufactured/fabricated vide their purchase order No. 10910005 dated 05.03.2010 to their specifications in the said order and amendment issued thereunder and to pay in consequence a sum of ₹ 62,70,448/- with interest.

The said suit was filed on 19.09.2012. The aforesaid suit progressed. At the stage of framing of issues, an application under Order 6 Rule 17 CPC came to be filed for amendment seeking to convert the suit for mandatory injunction into a suit for specific performance. Limitation for filing a suit for specific performance is three years and the same starts when the right to sue first accrues. Once the time starts running with the accrual of right, then it would not stop. If the suit is based on multiple causes of actions, the period of limitation will begin to run from the date when right to sue first accrues. Successive violation/cause of action will not give rise to first cause, and the suit will be beyond limitation after a period of three years. Even in declaratory suit, the cause of action as per Article 58 of the Limitation Act has to be on principle of '*terminus au quo*' i.e. "*when the right to sue first accrues*".

In view of the law laid down in the case of ***State of Punjab and another Versus Balkaran Singh, (2006) 12 SCC 709*** and another case of ***Khatri Hotels Private Limited and another Versus Union of India and another, (2011) 9 SCC 126***; it can be seen that a clear departure from the language of Article 120 of the Limitation Act has been made in Article 58 of the Act. The word "first" has been designedly used between the words "sue" and "accrued". There cannot be any abandonment of legal plea of the limitation for which the reliance can be placed in ***Anup Singh and others Versus Smt. Bachni @ Bachan Kaur and another, 1997(1) ILR (P&H) 381*** and

Bhandari Pushpamma Versus Bandari Krishna and other, (2004) 4 ICC 12 (AP).

At the time of issuing of notice of motion, the petitioner also referred to the case law titled ***Arvind Kumar Sachdev and another Versus Ajay Chaturvedi and others, 2016 (1) PLR 646*** and ***Civil Revision No. 845 of 2015 titled M/s Gurkirat Promoters and Developers Private Limited Versus Om Parkash and others*** decided on 09.02.2015.

Viewing the controversy from the aforesaid angle, I am of the view that at the time of filing of application for the amendment of plaint, the cause of action for the suit for specific performance had already become barred by limitation. The proposed amendment cannot be held to be bonafide in nature.

For the reasons recorded herein above, I accept this revision petition and the impugned order is set aside. Normal consequences to follow in accordance with law.

17th May, 2018

shabha

**(RAJ MOHAN SINGH)
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>