

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL NO. 24 OF 2020
IN
COMPANY PETITION NO. 22 OF 2016**

M/s. Mysore Timber Trading Co. ... Appellant

V/s.

Gstaad Hotels Pvt. Ltd. ... Respondent

**WITH
INTERIM APPLICATION NO. 225 OF 2020
IN
COMPANY PETITION NO. 22 OF 2016**

Ms. Laveena Tejwani i/by NDB Law for Appellant.
Ms. Rishika Harish a/w Munaf Virjee and Akash Agarwal i/by AMR Law
for Respondent.

**CORAM : NITIN JAMDAR, ACJ. AND
ARIF S. DOCTOR, J.**

DATED : 23 JUNE 2023.

P.C. :

The present Appeal impugns an order dated 13 April 2018,
by which, the learned Single Judge of this Court was pleased to dismiss

the captioned Company Petition on the ground that the same was *ex facie* barred by limitation.

2. Ms. Tejwani, learned counsel appearing on behalf of the Appellant at the outset submitted that the impugned order was liable to be set aside since the learned Single Judge had failed to consider the fact that the Respondent-Company had admitted the liability vide an email dated 6 October 2014. When asked to point out where this so called admission was, learned counsel admitted that the email was not annexed to the Petition. She then tendered a copy of the said email which reads thus:-

“Hi.

Please find the below working for your reference :

<u>Summary</u>	
<i>Outstanding as on 31/3/2012</i>	<i>40,25,750</i>
<u>Interest 18%</u>	
<i>As on 31/3/2014</i>	<i>7,24,635</i>
<i>Total</i>	<i>47,50,385</i>

”

3. Aside from the fact that this was never part of the Company Petition and hence the impugned order could not be faulted for non consideration thereof. Even assuming the same formed part of the Petition to our mind the said email is not an admission of liability and merely records that the Respondent had acknowledged that there was an amount of Rs.40,25,750/- outstanding as on 31 March 2012. It is not in dispute that the present Petition is filed on 3 June 2015 which is beyond the period of limitation.

4. Thus, reference to this email does not aid the contention of the Petitioner.

5. On a perusal of the Petition and annexures thereto, we are in full agreement with the view of the learned Company Judge that the Petition was *ex facie* barred by limitation.

6. With these observations, the Appeal is dismissed. No order as to costs.

7. In view of the dismissal of the Appeal, Interim Application filed therein does not survive and is accordingly disposed of.

(ARIF S. DOCTOR, J.)

(ACTING CHIEF JUSTICE)