

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (ST) NO. 32417 OF 2025
WITH
INTERIM APPLICATION NO. 12268 OF 2025
WITH
INTERIM APPLICATION (ST) NO. 32419 OF 2025

Atharvan Minerals Pvt Ltd

.. Appellant

Versus

Orient Abrasive Ltd

.. Respondent

.....

- Mr. Vaibhav Ugle a/w Mr. Prashant Mahajan, Advocates for Appellant
- Mr. Rushabh Seth a/w Ms. Mansi Patel, Mr. Jay Chheda & Ms. Shruti Dande i/by Ms. Mansi Patel, Advocate for Respondent

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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 9, 2025

P. C.:

1. Heard Mr. Ugle, learned Advocate for Appellant and Mr. Seth, learned Advocate for Respondent.

2. *Prima facie* it is seen that written statement is filed beyond the period of more than 7 months after the date of expiry of 120 days on 17.07.2023 from the date of service of Writ of Summons on 20.03.2023. Though Mr. Ugle would refer to and rely upon the order dated 23.09.2024 stating that learned Trial Court had itself condoned the delay subject to payment of Rs. 10,000/- on 23.09.2024 and would like to take advantage of that order. However considering that the said order itself is jurisdictionally incorrect and could have never been

passed, the Defendant cannot get advantage of that order. Though it is argued by Mr. Ugle that costs was paid but no written statement was filed on 19.12.2024 and the costs paid was returned back, still in view of the fact that principal Suit being a Commercial Suit strict interpretation of limitation would apply for the maximum period of 120 days from filing written statement from the date of service of writ of summons.

3. In view of the above, there is no merit in the Appeal from Order and the same is dismissed. Interim Application is also disposed.

4. Needless to state that all contentions of Defendant are expressly kept open to be availed by him in accordance with law in the pending Suit. Needless to state that learned Trial Court shall not be influenced by any of the observations made in this order and it is clarified that no observations are made on merits at all.

5. Appeal from Order is disposed. Both the Interim Applications are also accordingly disposed.

[MILIND N. JADHAV, J.]

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