

OCD-1

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
COMMERCIAL DIVISION**

**APOT/10/2026
IA No. GA-COM/1/2026, GA-COM/2/2026**

**VHYOM MINES AND MINERALS PRIVATE LIMITED
-Vs-
JHARKHAND ISPAT PRIVATE LIMITED**

BEFORE:

The Hon'ble JUSTICE DEBANGSU BASAK

-AND-

The Hon'ble JUSTICE MD. SHABBAR RASHIDI

For the Appellant : Mr. Anuj Singh, Adv.
Ms. Amrita Pandey, Adv.
Ms. Trisha De, Adv.
Mr. Dinesh Bachar, Adv.

For the Respondent : Mr. Nirmalya Dasgupta, Adv.
Mr. Shaunak Mitra, Adv.
Mr. Pallab Samajdar, Adv.
Mr. Dripto Majumdar, Adv.

HEARD ON : 01.04.2026

DELIVERED ON : 01.04.2026

DEBANGSU BASAK, J.:-

1. IA No. GA-COM/1/2026 is an application for condonation of delay.
2. The delay is of 250 days in making and filing the appeal.

3. In the application for condonation of delay, the appellant makes out a case that, it engaged the present advocate-on-record for the purpose of preferring an appeal. The certified copy of the impugned judgment and order was lost in the office of the advocate-on-record. It was thereafter reapplied for. Hence, the delay.
4. Purely on the principle that, fault of the advocate, if any, should not visit the litigant, we are inclined to accept the causes shown for condonation of delay as sufficient.
5. Delay of 250 days in making and filing the appeal is condoned.
6. IA No. GA-COM/1/2026 is disposed of.
7. Appeal is directed against the judgement and order dated May 21, 2025 passed in IA GA /5/2022 in CS-COM/301/2024 [Old No. CS/171/2021].
8. By the impugned judgement and order, learned Single Judge allowed IA GA/5/2025 of the respondent by directing the plaint to be returned by the plaintiff being presented before the appropriate Court.
9. Learned Advocate appearing for the appellant submits that, the appellant and the respondent entered into a contract for the supply of materials. He refers to the pleadings in the plaint. He submits that the contract was entered into between the parties at the corporate office of the respondent at Room No. 310, 3rd

floor, 41-A, Acharya Jagdish Chandra Bose Road, Taltala, Kolkata-700014.

- 10.** Learned Advocate appearing for the appellant submits that learned Trial Judge proceeded on the basis of the invoices in respect of materials already sold and delivered. He submits that the forum selection clause, in the invoices raised by the respondent, if at all, is applicable, then, the same is limited to the goods already sold. He submits that there is no dispute with regard to the goods already sold by the respondent to the appellant. He points out that, the appellant is seeking refund of the advance made by the appellant to the respondent for which the respondent did not supply and alternatively supply of goods and in the further alternative damages.
- 11.** Learned Advocate appearing for the appellant submits that since the forum selection clause does not cover the entire transaction learned Trial Judge erred in directing the return of the plaint on such basis. He submits that the pleadings in the plaint are required to be taken as true and correct while dealing with an application under Order VII Rule 11 of the Code of Civil Procedure, 1908. On reading of the plaint and treating the averments therein as true and correct, it cannot be said that, this Court does not possess requisite jurisdiction.
- 12.** Respondent is represented.

- 13.** Appellant as the plaintiff filed the suit which contains a money claim. Pleadings in the plaint are that, appellant and the respondent entered into negotiations by which, the respondent was required to supply certain specified goods to the appellant at an agreed price. The appellant paid a specified amount as way of advance for such goods. The respondent supplied a portion of the goods and failed to supply the balance. It is in respect of this balance supply that the appellant approached the High Court for reliefs.
- 14.** Appellant seeks to attract jurisdiction of this Hon'ble Court on the basis of situs of the corporate office of the respondent as lying and situate at Room No. 310, 3rd floor, 41-A, Acharya Jagdish Chandra Bose Road, Taltala, Kolkata in this jurisdiction.
- 15.** According to the appellant, negotiations took place at such corporate office and that a letter was issued by the respondent to the appellant from such corporate office. Therefore according to the appellant, a part of the cause of action arose at such corporate office.
- 16.** In course of the hearing of the appeal, we requested the learned Advocate for the appellant to produce any document so as to establish as to whether, the respondent was carrying on business from such corporate office. In response thereto, proceeding under the Prevention of Money Laundering Act as

well as proceeding undertaken by the Central Bureau of Investigation were sought to be relied upon. Such orders in such proceeding suggest that the shareholders of the respondent were located at the corporate office as described in the cause title of the plaint. However, no document was produced before us to suggest, let alone establish that, corporate office of the respondent itself was lying and situates at the place as is described in the cause title or in the body of the plaint.

- 17.** In paragraph 4 of the plaint, the appellant as a plaintiff pleaded that, pursuant to negotiations between the parties, a letter was issued by the respondent from its corporate office within jurisdiction. We requested the appellant to produce such document for our perusal. Learned advocate appearing for the appellant, on instruction, submits that no such document was ever issued.
- 18.** Although it is trite law that, a Court needs to read the plaint holistically and treat the statements made there as true and correct, at the same time, Courts are cautioned to consider invocation of jurisdiction of a Court on the basis of crafty drafting.
- 19.** In the facts of the present case, we did not find that the, appellant was in a position to establish, even at the prima facie level that, any part of the cause of action with regard to the transaction took place within the jurisdiction of this Hon'ble

Court. Pleadings with regard to the cause of action, allegedly arising within the jurisdiction of this Hon'ble Court, remains unsubstantiated even at a prima facie level.

20. In such view, we find no ground to interfere with the impugned judgment and order.

21. APOT/10/2026 is dismissed along with connected application.

(DEBANGSU BASAK, J.)

22. I agree

(MD. SHABBAR RASHIDI, J.)