

**IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE
COMMERCIAL DIVISION**

Present:

The Hon'ble Justice Krishna Rao

G.A. (COM) No. 3 of 2024

With

G.A. (COM) No. 4 of 2024

In

C.S. (COM) No. 450 of 2024

(Old No. CS 300 of 2022)

Sri Rani Sati Abasan Private Limited

Versus

Ambootia Tea Exports Private Limited & Ors.

Mr. Aniruddha Mitra, Sr. Adv.

Mr. Debraj Sahu

Mr. Bhaskar Dwivedi

Ms. Jyoti Rauth

Ms. T. Saha

Ms. Labanyashree Sinha

... For the plaintiff.

Mr. Debdatta Saha

Mr. Diprav Deb

Mr. A. Das

Mr. Subhamay Diwanji

... For the defendants.

Hearing Concluded On : 21.01.2026

Judgment on : 05.02.2026

Krishna Rao, J.:

1. The plaintiff has filed an application being G.A. (Com) No. 3 of 2024 under Order XII, Rule 6 of the Code of Civil Procedure, 1908, praying for judgment upon admission. The defendants have filed an application being G.A. (Com) No. 4 of 2024 under Order VII, Rule 11 of the Code of Civil Procedure, 1908, praying for rejection of Plaint.
2. The defendants have filed an application for rejection of plaint on the ground that the suit filed by the plaintiff does not fall within the purview of the Commercial Courts Act, 2015. It is submitted that the alleged simple loan transaction referred in the plaint, is between two corporate entities and is a simple loan transaction which cannot be termed as commercial dispute.
3. It is submitted that the loan was granted to the defendant in the nature of a friendly loan without any commercial flavor and without execution of any mercantile document. It is submitted that the suit filed by the plaintiff does not cover any of the clauses of Section 2(1)(c) of the Commercial Courts Act, 2015.

4. The second issue raised by the defendants is that in the midst of the moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016, the plaintiff has filed the present suit. It is submitted that as an application under Section 95(1) of the Code of 2016, is pending before the National Company Law Tribunal (NCLT), Kolkata against the plaintiff no.2, the suit filed by the plaintiff is barred by law.
5. The defendants submits that on 22nd September, 2021, an application under Section 95(1) of the Code of 2016 was filed before the NCLT, Kolkata but the said application was dismissed as premature. The said order was challenged before the Learned National Company Law Appellate Tribunal, New Delhi and the Appellate Tribunal by an order dated 27th May, 2022, allowed the said appeal and now the matter is pending before the NCLT.
6. It is submitted that during the pendency of the proceeding before the Learned National Company Law Tribunal, the plaintiff has presented the present suit on 22nd December 2022 by suppressing the facts that the suit filed by the plaintiff is barred by law.
7. The defendants in support of his submissions, have relied upon the following judgments:

i. **Ashika Global Securities Pvt. Ltd. Vs. Rita Kedia** reported in **2024 SCC OnLine Cal 8699**,

ii. **Prime Hitech Textiles LLP Vs. Manish Kumar** reported in **2022 SCC OnLine Cal 2326** submits that in both cases, this Court held that the suit filed by the plaintiff is not covered under any of the provisions of Section 2(1)(c) of the

*Commercial Courts Act, 2015 and returned the
plaint to be presented before the appropriate
Court.*

8. The plaintiff says that in the month of January 2017, the defendant no.2 on behalf of the defendant no.1 approached the plaintiff for grant of an Inter Corporate unsecured loan for an amount of Rs. 50 lacs and after discussion between the parties, the plaintiff agreed to give an Inter-Corporate loan of Rs. 50 lacs to the defendant no.1 which will carry an interest at the rate of 18% per annum. On 19th January, 2017, the plaintiff has transferred an amount of Rs. 50 lacs by way of RTGS to the bank account of defendant no.1 maintained with the United Bank of India, Chowringhee Branch, Kolkata.
9. It is submitted that on 31st March, 2017, the defendant no.1 paid interest at the rate of 18% per annum on principal loan amount and tax was also deducted at source (TDS) by the defendant no.1. On 1st April, 2017, a Confirmation of Accounts for the financial year 2016-2017 was duly signed by the defendant no.1.
10. The plaintiff submits that during the financial year 2017-2018 also interest was paid, TDS was deducted, and on 1st April, 2018, a Confirmation of Accounts for the period of 2017-2018 was signed by the defendant no.1. It is further contended that by a letter dated 22nd March, 2019, the defendant no.1 requested the plaintiff for renewal of the unsecured loan till 21st July, 2019 and assured that the repayment of the principal amount will be made on 22nd July, 2019. Two cheques

were issued in favour of the plaintiff covering interest and principal amount. Along with the letter dated 22nd March 2019, the defendant no.1 issued a Demand Promissory Note wherein the defendant no.1 unconditionally promised to repay the loan amount along with interest at the rate of 18% per annum on or before 22nd July, 2019.

- 11.** It is contended that during the financial year 2018-2019, interest was paid after deducting TDS and on 1st April, 2019, a Confirmation of Accounts was signed acknowledging the loan amount of Rs. 50 lacs. On 19th July, 2019, the defendant no.1 issued another letter requesting for renewal of the loan till 18th November, 2019 and cheques were issued and Promissory Note was also issued by the defendant no.1 on 22nd July, 2019. On 19th November, 2019, the defendant no.1 again requested for renewal of the loan till 16th February, 2020 and issued two cheques covering interest and principal amount.
- 12.** The plaintiff says that on 17th February, 2020, the defendant nos. 2 and 3 verbally requested the plaintiff not to deposit the cheques in the bank and requested some time to clear the loan amount. The defendant no.1 had paid interest at the rate of 18% per annum on principal amount of Rs. 50 lacs till 22nd October, 2020 and thereafter the defendants defaulted in paying interest and also not paid the principal amounts.
- 13.** The plaintiff has made several requests to the defendants since October 2020 and on 1st March, 2021, the defendant no.1 issued two cheques

for payment of interest of Rs. 2,98,154/- and principal amount of Rs. 50 lacs with the request not to deposit the said cheques prior to April, 2021. The cheque for payment of interest was dishonored on 3rd /4th April, 2021 and the cheque carrying the principal amount was dishonored on 13th April, 2021 with the endorsement "Funds Insufficient". The defendant nos. 2 and 3 requested the plaintiff to deposit the said cheques in the month of May, 2021 but again the same was dishonored.

- 14.** The plaintiff has issued notices to the defendants but the defendants had failed to pay the principal amount along with interest.
- 15.** The plaintiff says that the defendants have issued Confirmation of Accounts from time to time which bears the signature of both the parties, the defendants have also executed Promissory Notes from time to time with respect to the loan amount and have also issued cheques from time to time which proves that that transaction between the plaintiff and the defendants, is commercial in nature.
- 16.** The plaintiff further says that as regard to the alleged case pending before the NCLT under Section 95(1) of the Code of 2016, it is the specific case of the defendants that the case is against the plaintiff no.2 but in the present suit there is no plaintiff no. 2.
- 17.** It is further contended that the orders passed by the NCLT which the defendants have relied upon, in the said order there is no whisper that the plaintiff is party to the said proceeding.

18. The plaintiff in support of its submissions has relied upon the following judgments:

- i. ***Amanpreet Kohli Vs. Pankaj Dayal*** reported in **2023 SCC OnLine Del 1808**,
- ii. ***Padma Logistics and Khanij Pvt. Ltd. Vs. Ideal Unique Realtors Pvt. Ltd.*** reported in **2022 SCC OnLine Cal 126**,
- iii. ***Ladymoon Towers Private Limited Vs. Mahendra Investment Advisors Private Limited*** reported in **2021 SCC OnLine Cal 4240**,
- iv. *Unreported judgment passed in the case of Venkatesh Vincom Private Limited Vs. M/s Spice of Joy, Multicusine Restaurant cum bar & Ors. in FMAT No. 20 of 2022 dated 26th September, 2022.*

19. By referring the said judgments, the plaintiff submits that in all cases different Courts including the Coordinate Bench of this Court held that Confirmation of Accounts, Promissory Note and postdated cheques are ordinary transaction of merchants and financiers. The loan carried interest, and, therefore, was not friendly loan.

20. This Court finds that in the present case, the defendants have issued Confirmation of Accounts on 1st April, 2017, 1st April, 2018 and 1st April, 2019. The defendants have also executed Promissory Notes on 22nd March, 2019 and 22nd July, 2019. Issued postdated cheques from time to time and lastly on 1st March, 2021. Issued letter dated 19th November, 2011, for renewal of unsecured loan. Considering the above

documents, there is no doubt that the transaction between the plaintiff and the defendants is commercial in nature and duly covered under the provisions of Section 2(1)(c)(i) of the Commercial Courts Act, 2015.

- 21.** As regard to the pendency of the case before the Learned National Company Law Tribunal, Kolkata, it is the case of the defendants that a case is pending against the plaintiff no.2 but in the present case, there is no plaintiff no.2. The orders relied by the defendants passed in the proceeding before the Learned Tribunal, from the said orders it does not reveals that the said proceeding is against the plaintiff herein.
- 22.** In view of the above, the application filed by the defendants under Order VII, Rule 11 of the Code of Civil Procedure, 1908, being G.A. (Com) No. 4 of 2024 is dismissed.
- 23.** With regard to the application filed by the plaintiff for judgment upon admission, this Court finds that the defendants have also filed written statement but in the written statement, the defendants have not denied with respect to the loan amount and the documents relied by the plaintiff. The defendants have mainly taken the stand of maintainability of the suit.
- 24.** In paragraphs 10 and 11 of the written statement, the defendants have stated as follows:

“10. With reference to the statements made in paragraph 1, 2 and 3 of the plaint, the defendant denies and disputes the allegations made therein save and except what are matters of record and the plaintiff shall be constrained to strict proof thereof.

It is specifically stated that the said loan, if at all, was a loan in the nature of a friendly and/or a hand loan, and such loan does not fall within the definition of the “commercial dispute” under the Commercial Courts Act, 2015 especially because the said loan was not as per any mercantile documents, it was a loan provided as an understanding. Such informal nature of the said loan itself shows that the said loan cannot be of a commercial nature. The plaintiff has not pleaded anywhere in the plaint that the said loan was provided as per any agreement and/or any mercantile document at all, it has been pleaded at all instances that the said loan was provided on good terms and on understanding, without any execution of documents at all. It is also pertinent to mention here that the plaintiff has also not provided any pleading or any documentary evidence showing that the plaintiff is a financier in terms of the definition of the Commercial Courts Act, 2015.

11. *With reference to the statements made in paragraph 4, 5, 6 and 7 of the plaint, the defendant denies and disputes the allegations made therein save and except what are matters of record and the plaintiff shall be constrained to strict proof thereof. It is specifically stated that even if it is assumed by not admitting anything that the alleged dues of the plaintiff are due and payable by the defendant to the plaintiff, the instant dispute would not fall under the Commercial Courts Act, 2015 in terms with the provisions of the statute.”*

- 25.** At the outset, it is well settled that the object of Order XII, Rule 6 of the Code of Civil Procedure, 1908, is to obtain a speedy judgment at least to the extent of the admission of the defendant. This Rule ensures that if there is no dispute between the parties and if there is on the pleadings or otherwise such an admission, the plaintiff is entitled as a matter of right to obtain at once a judgment to the extent of the admission. The Rule also contemplates that either party at any stage of

the suit may obtain judgment or an appropriate order to get rid off so much of the suit to which there is no controversy. The Rule also confers a very wide discretion of the Court [*Uttam Singh Duggal & Co. Ltd. vs. United Bank of India* reported in (2000) 7 SCC 120]. In *Ravees Chandra Jain vs. Rajrani Jain* reported in (2015) 8 SCC 428, it was held that, Order XII Rule 6 of the Code of Civil Procedure, 1908, confers a wide discretion on Court to pass a judgment at any stage of suit on the basis of admission of facts made in pleadings or otherwise without waiting for a determination or any other question which arises for consideration in the suit.

- 26.** This Court finds that the defendants have admitted that the plaintiff has paid a loan amount of Rs. 50 lacs and on receipt of the same, the defendants have paid interest after deducting TDS and also issued Confirmation of Accounts. The defendant no.1 executed Promissory Notes and has issued cheques for principal amount as well as for interest but the same were dishonored.
- 27.** This Court is of the view that the defendants have unequivocally, unambiguously and undisputedly admitted the claim of the plaintiff. The defendants have paid interest on the principal amount at the rate of 18% per annum till 22nd October, 2020 and thereafter the defendants have not paid the interest, thus the defendants have also admitted the interest at the rate of 18% per annum.

28. In view of the above, the plaintiff is entitled to get decree on admission.

The defendants are directed to pay the principal amount of Rs. 50,00,000/- (Rupees Fifty Lacks only) along with interest at the rate of 15% per annum from 23rd October, 2020 till realization of the principal amount. The defendants are also liable to pay cost of the suit assessed at Rs.1,00,000/- (Rupees One Lakhs Only).

29. G.A. (Com) No. 3 of 2024 is allowed. C.S (Com) No. 450 of 2024 (Old No. CS 300 of 2022) is disposed of. Decree be drawn accordingly.
G.A. (Com) No. 4 of 2024 is dismissed.

(Krishna Rao, J.)