

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

(126)

CR-1805-2026 (O&M)
Date of Decision: **09.03.2026**

M/S PREMIUM ELECTRONICS

... Petitioner

Versus

GAURAV SAHNI AND OTHERS

... Respondents

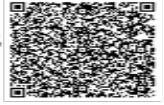
CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Himanshu Arora, Advocate and
Ms. Muskan, Advocate
for the petitioner.

VIRINDER AGGARWAL, J. (Oral)

1. The petitioner, invoking the supervisory jurisdiction of this Court under Article 227 of the Constitution of India, has assailed the legality and propriety of the order dated 09.12.2023, passed by the learned Presiding Judge, Exclusive Commercial Court, Gurugram, whereby the defence of the petitioner came to be struck off on account of the petitioner's failure to file the written statement within the statutorily prescribed period.

2. The factual matrix, in brief, is that the respondent-plaintiff instituted a commercial suit seeking recovery of money. It is the case of the petitioner that notice of the said suit was allegedly served on 21.07.2025; however, the service was not effected in conformity with the requirements contemplated under the Companies Act, 2013, inasmuch as



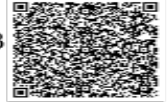
the notice was served at the residential address of proforma respondents No.2 and 3, rather than being duly effected upon the petitioner-company in the manner known to law. It is further asserted that neither the petitioner nor the said proforma respondents were personally served.

2.1. The petitioner thereafter entered appearance through counsel on 09.09.2025, whereupon the matter was adjourned to 27.10.2025, with a direction to the petitioner to file its written statement in accordance with the mandate of Order VIII Rule 1 of the Code of Civil Procedure, 1908 (for short, 'CPC') as applicable to commercial disputes.

2.2. On the adjourned date, i.e., 27.10.2025, the petitioner failed to file the written statement and sought an adjournment, which was granted by the learned Commercial Court subject to payment of costs quantified at ₹2,000/-, vide order of the same date. The petitioner subsequently complied with the said direction by depositing the costs and filed the written statement on 09.12.2025, accompanied by an application seeking its acceptance on record.

2.3. However, by virtue of the impugned order, the learned Commercial Court declined to take the written statement on record and proceeded to strike off the defence of the petitioner, primarily on the ground that the written statement had been filed beyond the outer time limit prescribed under Order VIII Rule 1 CPC, as applicable to commercial suits.

2.4. Aggrieved by the aforesaid order, the petitioner has approached this Court by way of the present revision petition.



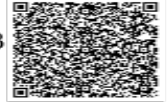
3. I have duly considered the submissions advanced by learned counsel appearing on behalf of the petitioner and have minutely examined the paper-book.

4. Learned counsel appearing on behalf of the petitioner has contended that the impugned order is legally unsustainable and contrary to the settled principles of law. It is submitted that the alleged service upon the petitioner as well as the proforma respondents was not effected in conformity with the mandatory provisions of the Companies Act, 2013, inasmuch as the notice was served at the residential address of proforma respondents No.2 and 3 and not upon the petitioner in the manner recognized by law.

4.1. It is further argued that the petitioner was prevented from filing the written statement within the stipulated period owing to the ambiguity in the orders passed by the learned Commercial Court. According to the learned counsel, the tenor of the order dated 27.10.2025 clearly conveyed that the petitioner had been permitted to file the written statement on or before 09.12.2025. Consequently, when the petitioner sought to file the written statement on 09.12.2025, the same ought to have been accepted on record. It is thus contended that the petitioner cannot be made to suffer for any ambiguity or inadvertent error in the order of the Court, as it is a well-established principle of law that a litigant should not be prejudiced on account of an act or mistake of the Court.

5. The order dated 27.10.2025 reads as under:-

“Today, joint power of attorney on behalf of defendants no.1 and 3 and separate power of attorney on behalf of defendant no.2 have been filed. Written statement have not been filed.

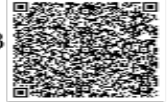


On the request of learned counsel for defendants, the case is adjourned to 09.12.2025. Defendants shall file their written statement on or before the date fixed subject to the timeline provided for filing written statement in a commercial suit as per amended Order 8 Rule 1 CPC subject to payment of Rs. 2,000/- as costs to be deposited with DLSA, Gurugram. Receipt regarding depositing of cost with DLSA, Gurugram be also filed on the date fixed.”

5.1. A careful perusal of the aforesaid order reveals that the matter was adjourned to 09.12.2025, while granting the defendants an opportunity to file their written statement in accordance with the mandate of Order VIII Rule 1 of CPC, as made applicable to commercial disputes. Under the statutory scheme governing commercial suits, the written statement is required to be filed within a period of ‘**30 days**’ from the date of service of summons.

5.2. The said provision further empowers the Court, for reasons to be recorded in writing and upon such costs as it may deem appropriate, to extend the said period; however, such extension cannot exceed the outer limit of 120 days from the date of service of summons. The legislative mandate is explicit that upon the expiry of the aforesaid period of 120 days, the defendant forfeits the right to file the written statement, and the Court is precluded from taking the same on record.

5.3. In the impugned order, the learned Presiding Officer, Commercial Court, has placed reliance upon the authoritative pronouncements of the Hon’ble Supreme Court in *M/s SCG Contracts*



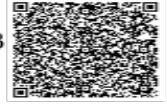
India Pvt. Ltd. v. K.S. Chamankar Infrastructure Pvt. Ltd. and Others, (2019) 3 SCR 1050, and Des Raj v. Balkishan (D) through Proposed LRs Ms. Rohini, 2020(1) RCR (Civil) 807, as well as the judgments of this Court in Score Rating Agency and Consulting Pvt. Ltd. v. OMG Network India Pvt. Ltd., Neutral Citation No. 2024:PHHC:122839, and Roljack Asia Ltd. and Others v. Jeet Asia Pvt. Ltd., Neutral Citation No. 2024:PHHC:120425.

5.4. From the material on record, it emerges that the petitioner sought leave of the Court to file the written statement on the 136th day from the date of service of summons. In view of the statutory embargo contained in Order VIII Rule 1 CPC, as applicable to commercial Courts, the learned Presiding Officer rightly declined to grant such permission and consequently refused to accept the written statement on record.

5.5. For ready reference, the relevant provisions of Order VIII Rule 1 CPC, as applicable to Commercial Courts, are reproduced hereunder:-

“1. Written Statement. -The defendant shall, within thirty days from the date of service of summons on him, present a Written Statement of his defence:

Provided that where the defendant fails to file written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the court, for reasons to be recorded in writing and on payment of such costs as the court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons, the defendant shall

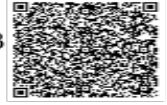


forfeit the right to file the written statement and the court shall not allow the written statement to be taken on record."

6. It is by now well settled that the time limit of 120 days prescribed under Order VIII Rule 1 CPC, as applicable to commercial disputes, is mandatory and not merely directory. The Hon'ble Supreme Court in **M/s SCG Contracts India Pvt. Ltd. (supra)** has unequivocally held that once the statutory period of 120 days from the date of service of summons expires, the defendant forfeits the right to file the written statement and the Court is divested of the jurisdiction to take the same on record.

7. Learned counsel for the petitioner has, however, sought to place reliance upon the judgment of the Hon'ble Supreme Court in **M/s Anvita Auto Tech Works Pvt. Ltd. v. M/s Aroush Motors, 2025 INSC 1202**. In the said case, the Hon'ble Apex Court permitted the written statement to be taken on record beyond the prescribed period of 120 days, noticing that the statutory period had expired on 14.11.2021, whereas the written statement was sought to be filed on 07.01.2022. The indulgence was granted in the peculiar factual matrix of that case, particularly in view of the unprecedented situation arising from the **COVID-19** pandemic.

8. The Hon'ble Supreme Court had, in exercise of its extraordinary powers under Article 142 of the Constitution of India, passed a series of orders directing exclusion of the period commencing from 15.03.2020 to 28.02.2022 for the purposes of computing limitation. Since the period in question in that case fell within the said excluded



interval, the written statement was permitted to be taken on record notwithstanding the lapse of the statutory timeline.

8.1. However, the said relaxation was granted in the exceptional backdrop of the pandemic and cannot be construed as a general proposition of law permitting extension of the statutory period. In ordinary circumstances, the outer limit of 120 days remains absolute and incapable of enlargement by the Court. Consequently, this Court finds no illegality, perversity, or jurisdictional infirmity in the impugned order warranting interference in exercise of the revisional jurisdiction of this Court.

9. Learned counsel for the petitioner has further prayed that it be clarified that the petitioner-defendant shall retain the right to cross-examine the witnesses produced by the respondent-plaintiff.

9.1. In this regard, it is clarified that although the defence of the petitioner has been struck off for failure to file the written statement within the statutory period, such consequence does not disentitle the petitioner from cross-examining the witnesses produced by the respondent-plaintiff. The petitioner shall, therefore, be entitled to cross-examine the witnesses of the respondent-plaintiff on the basis of their respective examination-in-chief, in accordance with law.

10. It is, however, expressly clarified that the observations recorded here-in-above are confined solely to the adjudication of the limited controversy arising in the present petition. Nothing stated in this order shall be construed as an expression of opinion on the merits of the underlying dispute between the parties. All observations are restricted to the determination of the issue presently under consideration and shall not



prejudice or influence the rights, claims, or contentions of any party in the main proceedings or in any other collateral proceedings.

11. In view of the fact that the principal matter stands finally adjudicated on merits, all pending miscellaneous or ancillary applications, if any, are deemed to have been disposed of accordingly. No separate orders are required to be passed in that regard.

09.03.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No