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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RFA-COM-32-2018 (O&M)
Date of decision: 05.05.2026

M/S AMBIENCE HOTELS AND RESORTS LTD.

....Appellant

Versus

M/S CONTINENTAL FURNISHERS

...Respondent

CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR

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Present: Mr. Sanjay Kaushal, Senior Advocate with
Mr. R. Kartikeya, Advocate
for the appellant.

Mr. Chetan Mittal, Senior Advocate with
Mr. Udit Garg, Advocate
for the respondent.

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ASHWANI KUMAR MISHRA, J. (Oral)

1. This appeal has been filed invoking jurisdiction of this Court under Section 13 of the Commercial Courts Act, 2015 assailing the judgment and decree passed by the Court below awarding a sum of Rs.1.70 crores along with interest @6% per annum w.e.f. 17.05.2010, in favour of the plaintiff-respondent.

2. Undisputed facts of the case are that a contract was awarded by the defendant-appellant in favour of respondent for supply, erection, execution and commissioning of interior works at Leela Kempenski Ambience Hotel at Ambience Island, NH-8 Gurgaon in the year 2007. On submission of quotations by the plaintiff-respondent and after negotiations between the parties, the plaintiff-respondent was awarded two work orders on 16.07.2007 and 05.09.2007. The work orders have been referred to in para 3 of the judgment of

the Commercial Court, which are reproduced as under:-

> *"a) The work order dated 16.07.2007 involved supply, erection. execution and commissioning of interior works for King rooms, twin rooms and Corridor junctions on the 8th and 9th Floors at Leela Kempenski Ambience Hotel, Gurgaon for a final negotiated firm price of Rs. 6,61,20,000/- (Rs. Six Crores Sixty One Lacs Twenty Thousands only).*
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> *b) The work order dated 05.09.2007 was for supply, erection, execution and commissioning of interior works for serviced apartments and corridor junctions on the fifth and seventh floors at Leela Kempenski Ambience Hotel, Gurgaon for a final negotiated firm price of Rs. 4,25,03,846/- (Rs. Four Crores Twenty Five Lacs, Three Thousands Eight Hundred Forty Six only)."*

3. The pleadings on record would indicate that the aforesaid work order was modified, and the plaintiff-respondent was called upon to do interior work for the 5th and 7th floor instead of 8th and 9th floor of the building. According to the plaintiff-respondent, the work was to be completed within a period of 150 days from the date of respective work order, but the work was actually completed on 17.05.2010. At the stage of final settlement of accounts, it was found that a sum of Rs.2.70 crores was due and payable to the plaintiff-respondent, and out of such amount, a cheque of Rs.1 crore was given to the plaintiff-respondent. The defendant-appellant acknowledged the liability to pay Rs.2.70 crores, out of which Rs.1 crore had been tendered by way of a cheque on 17.05.2010. The balance amount of Rs.1.70 crores, however was not paid. It is thereafter that a demand notice was issued by the plaintiff-respondent against the appellant on 28.03.2012 under section 434 read with section 433(e) of the Companies Act, 1956. In response to such demand notice, a reply was sent by the defendant-appellant on 30.04.2012, wherein para 5 and 10 stated as under:-

> *"5. In view of the request of your client, are client agreed with your client to release a sum of Rs.1,00,00,000/- and retaining the balance amount of Rs. 1,70,00,000/- to be paid in due course as per clause 27 of the letter of*

award dated 16th July, 2007. The set amount of Rs. 1,70,00,000/-was payable to your client only after a period of 24 months i.e. On 17th May, 2012 subject to completion, rectification/replacement of work got done by your client.

10. That according to clause 27 of the letter of award, the balance amount of Rs. 1,70,00,000/- was payable only on 17th May, 2012, after adjusting the various amounts incurred by our client towards repairs/replacement in the work done by your client. The notice issued by you dated 28th March, 2012 under the instructions of your clients is wholly false, frivolous, malafide and motivated besides being premature."

4. Since the balance amount of Rs.1.70 crores was not paid, therefore, the plaintiff-respondent ultimately instituted original suit before the concerned Commercial Court on 14.05.2015. This suit has been decreed by the Court below and decree has been passed directing recovery to be made from the appellant to the tune of Rs.1.70 crores as principal along with interest @6% per annum. Aggrieved by such judgment and decree of the Commercial Court, the defendant-appellant has preferred the present appeal.

5. We may observe that on the previous occasion, this appeal was adjourned as it was indicated that some amicable settlement is likely to be worked out. However, ultimately such settlement could not work out, and therefore this Court is proceeding with the hearing of the matter.

6. The only ground on which the judgment and decree of the Commercial Court is assailed is that the suit itself was barred by limitation, and therefore, the decree cannot be sustained. This argument on behalf of the defendant-appellant proceeds on the ground that the liability to pay balance amount of Rs.1.70 crores was determined on 17.05.2010, and therefore by virtue of Article 137 of the Limitation Act, the suit could have been filed within a

period of 3 years which expired in the year 2013. It is also submitted that the plaintiff-respondent while submitting notice under section 434 of the Companies Act had clearly renounced its earlier claim of Rs.1.70 crores and had in fact demanded a sum of Rs. 3,92,02,908/-, and therefore the subsequent attempt to revive the claim of Rs.2.70 crores was legally unsustainable.

7. On the basis of respective case set up by the parties, the only point which requires determination in the present appeal is as to whether the suit for recovery instituted by the plaintiff-respondent was within limitation or not.

8. The plea of the defendant-appellant that the suit was barred by limitation has been objected to by the plaintiff-respondent relying upon the reply to the legal notice submitted by the defendant-appellant on 30.04.2012. In this reply, para 5 and 10 have already been extracted above, which would indicate that as per the defendant-appellant, the balance sum of Rs.1.70 crores was payable to the plaintiff-respondent only after a period of 24 months i.e. 17.05.2012, subject to completion, rectification/replacements of work got done by plaintiff-respondent. It is not in dispute that the suit has been instituted within a period of 3 years from the date mentioned in the reply of the defendant-appellant i.e. 17.05.2012.

9. The Commercial Court has rejected the objection of the defendant-appellant to the suit on the ground of limitation, relying upon the notice dated 30.04.2012, which has been construed as acknowledgement of the liability of defendant-appellant on 30.04.2012. As per the case of the defendant-appellant itself, the amount was payable on 17.05.2012. The issuance of legal notice by the counsel for the defendant-appellant on 30.04.2012, or its contents including para 5, are not disputed.

10. Once that be the position, we find that filing of the suit on 14.05.2015 was within the period of limitation, as according to the defendant-appellant itself, the amount of Rs.1.70 crores awarded by the Commercial Court became payable on 17.05.2012.

11. Section 18 of the Limitation Act, 1963 reads as under:-

> *"18. **Effect of acknowledgment in writing.**—(1) Where, before the expiration of the prescribed period for a suit or application in respect of any property or right, an acknowledgment of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by any person through whom he derives his title or liability, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed.*
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> *(2) Where the writing containing the acknowledgment is undated, oral evidence may be given of the time when it was signed; but subject to the provisions of the Indian Evidence Act, 1872 (1 of 1872), oral evidence of its contents shall not be received.*
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> *Explanation.—For the purposes of this section,—*
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> *(a) an acknowledgment may be sufficient though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery, performance or enjoyment has not yet come or is accompanied by a refusal to pay, deliver, perform or permit to enjoy, or is coupled with a claim to set off, or is addressed to a person other than a person entitled to the property or right,*
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> *(b) the word "signed" means signed either personally or by an agent duly authorised in this behalf, and*
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> *(c) an application for the execution of a decree or order shall not be deemed to be an application in respect of any property or right."*

12. The Supreme Court in the case of ***J.C. Budhraja vs. Chairman, Orissa Mining Corporation Ltd. And another, (2008) 2 SCC 444***, has interpreted Section 18 of the Limitation Act, to hold as under:-

> *"20. Section 18 of the Limitation Act, 1963 deals with effect of acknowledgement in writing. Sub-section (1) thereof provides that where, before the expiration of the prescribed period for a suit or application in respect of any right, an acknowledgement of liability in respect of such right*

has been made in writing signed by the party against whom such right is claimed, a fresh period of limitation shall be computed from the time when the acknowledgement was so signed. The explanation to the section provides that an acknowledgement may be sufficient though it omits to specify the exact nature of the right or avers that the time for payment has not yet come or is accompanied by a refusal to pay, or is coupled with a claim to set off, or is addressed to a person other than a person entitled to the right. Interpreting section 19 of the Limitation Act, 1908 (corresponding to section 18 of the Limitation Act, 1963) this Court in Shapoor Freedoom Mazda v. Durga Prosad Chamaria held:

> *"6…. acknowledgement as prescribed by section 19 merely renews debt; it does not create a new right of action. It is a mere acknowledgement of the liability in respect of the right in question; it need not be accompanied by a promise to pay either expressly or even by implication. The statement on which a plea of acknowledgement is based must relate to a present subsisting liability though the exact nature or the specific character of the said liability may not be indicated in words. Words used in the acknowledgement must, however, indicate the existence of jural relationship between the parties such as that of debtor and creditor, and it must appear that the statement is made with the intention to admit such jural relationship. Such intention can be inferred by implication from the nature of the admission, and need not be expressed in words. If the statement is fairly clear, then the intention to admit jural relationship may be implied from it. The admission in question need not be express but must be made in circumstances and in words from which the court can reasonably infer that the person making the admission intended to refer to a subsisting liability as at the date of the statement. Stated generally, courts lean in favour of a liberal construction of such statements though it does not mean that where no admission is made one should be inferred, or where a statement was made clearly without intending to admit the existence of jural relationship such intention could be fastened on the maker of the statement by an involved or far-fetched process of reasoning. ...In construing words used in the statements made in writing on which a plea of acknowledgement rests oral evidence has been expressly excluded but surrounding circumstances can always be considered.*
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> *7. ...The effect of the words used in a particular document must inevitably depend upon the context in which the words are used and*

would always be conditioned by the tenor of the said document...."

21. It is now well settled that a writing to be an acknowledgement of liability must involve an admission of a subsisting jural relationship between the parties and a conscious affirmation of an intention of continuing such relationship in regard to an existing liability. The admission need not be in regard to any precise amount nor by expressed words. If a defendant writes to the plaintiff requesting him to send his claim for verification and payment, it amounts to an acknowledgement. But if the defendant merely says, without admitting liability, it would like to examine the claim or the accounts, it may not amount to acknowledgement. In other words, a writing, to be treated as an acknowledgement of liability should consciously admit his liability to pay or admit his intention to pay the debt. Let us illustrate. If a creditor sends a demand notice demanding payment of Rs.1 lakh due under a promissory note executed by the debtor and the debtor sends a reply stating that he would pay the amount due, without mentioning the amount, it will still be an acknowledgement of liability. If a writing is relied on as an acknowledgement for extending the period of limitation in respect of the amount or right claimed in the suit, the acknowledgement should necessarily be in respect of the subject matter of the suit. If a person executes a work and issues a demand letter making a claim for the amount due as per the final bill and the defendant agrees to verify the bill and pay the amount, the acknowledgement will save limitation for a suit for recovery of only such bill amount, but will not extend the limitation in regard to any fresh or additional claim for damages made in the suit, which was not a part of the bill or the demand letter. Again we may illustrate. If a house is constructed under the item rate contract and the amount due in regard to work executed is Rs. two lakhs and certain part payments say aggregating to Rs.1,25,0000/- have been made and the contractor demands payment of the balance of Rs.75,000/- due towards the bill and the employer acknowledges liability, that acknowledgement will be only in regard to the sum of Rs.75,000/- which is due. If the contractor files a suit for recovery of the said Rs.75,000/- due in regard to work done and also for recovery of Rs.50,000/- as damages for breach by the employer and the said suit is filed beyond three years from completion of work and submission of the bill but within three years from the date of acknowledgement, the suit will be saved from bar of limitation only in regard to the liability that was acknowledged namely Rs.75,000/- and not in regard to the fresh or additional claim of Rs.50,000/- which was not the subject matter of acknowledgement. What can be acknowledged is a present subsisting liability. An acknowledgment made with reference to a liability, cannot extend limitation for a time barred liability or a claim that was not *made at the time of acknowledgment or some other liability relating to other transactions. Any admission of jural relationship in regard to the ascertained sum due or a pending claim, cannot be an acknowledgement for a new additional claim for damages."*

13. Keeping in view the facts of the case, when analyzed in light of the statutory provisions contained under Section 18 of the Limitation Act as have been interpreted by the Supreme Court as above, we have no hesitation in coming to the conclusion that the suit filed by the plaintiff-respondent was clearly within the period of limitation. Appeal stands **dismissed** accordingly.

14. Pending applications, if any, shall stand disposed of accordingly.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

MAY 05, 2026
mohit goyal

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No