* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Reserved on : 11th August 2026***
Pronounced on : 25th September 2026
Uploaded on : 26th September 2026

\# **CNR No. DLHC010277722026**

\+ **C.R.P. 186/2026 & CM APPL. 40898/2026 CM APPL. 40899/2026 CM APPL. 40900/2026**

ANUPAM GUPTA .....Petitioner

Through: Ms. Rashi Bansal and Ms. Deepti Thapa, Advocates.

versus

HERSHIT KUMAR GUPTA .....Respondent

Through: Mr. Gauravjeet Narwan, Ms. Aanchal Singh & Mr. S. M. Aamir, Advocates.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J.

1. This petition invites interpretation of directions passed by the Supreme Court during the *COVID-19 pandemic* relating to the extension of the period of limitation [***In Re: Cognizance for Extension of Limitation, Suo Motu Writ Petition (C) No.3 of 2020***].

2. This Revision Petition has been filed for setting aside impugned order dated 30th April 2026 passed by the District Judge, East District, Karkardooma Courts, Delhi in ***CS DJ No. 542/2023***, which dismissed the

application under Order VII Rule 11 of the Code of Civil Procedure, 1908 ('***CPC***') filed by the petitioner/defendant for rejection of the plaint as being barred by limitation. For this purpose, it will be useful to record the sequence of events.

3. A suit for recovery of *Rs.1,00,00,000/-* along with interest was filed by the respondent/plaintiff against the petitioner/defendant. It was claimed that the families of the plaintiff and the defendant had close family ties for more than 35 years. In October 2018, the defendant's father had approached the father of the plaintiff seeking financial help to set up a new business. The plaintiff and his father agreed to transfer a sum of *Rs.1,00,00,000/-* to the father of the defendant. The amount of *Rs.1,00,00,000*/- was transferred from the plaintiff to the defendant's father. It is alleged that over a period of time, when they asked for the return of the loan, various excuses were given not to comply.

4. On 11th May 2021, father of the defendant passed away, and the responsibility of the business was passed on to the defendant. Yet again, despite requests and reminders, the defendant failed to repay the loan. A demand letter was sent on 12th July 2023 through the post, which was delivered on 13th July 2023. Since the amount was not paid, the suit was filed in October 2023. In the suit, it was stated that the limitation started from 25th October 2018 and, taking into account the *Supreme Court's directives on extension of limitation during the COVID-19*, the period from 15th March 2020 till 28th February 2022 stands excluded.

<u>Impugned Order</u>

5. In application filed under Order VII Rule 11 of CPC the defendant primarily raised the issue that the suit is time-barred and should

accordingly be dismissed. Defendant argued that even after availing the benefit of exclusion provided under ***In Re: Cognizance for Extension of Limitation, Suo Motu Writ Petition (C) No.3 of 2020,*** the suit is time-barred. The Trial Court noted that the issue is only of correct interpretation and application of the directions issued by the Supreme Court concerning exclusion and extension of limitation during the pandemic period.

6. The Court observed that limitation would ordinarily have expired on 25th October 2021. As on 15th March 2020, a balance period of 1 year, 7 months and 10 days remained. This balance period was preserved and became available from 01st March 2022. Thereby, limitation would have expired on 11th October 2023. The Court held that since suit was filed on 09th October 2023, it was held to be within limitation. Trial Court rejected the argument of the defendant that plaintiff was entitled to only 90 days from 01st March 2022.

7. The Trial Court dismissed the Order VII Rule 11 application and concluded that the grounds raised under the application are not made out.

Supreme Court Directives

8. Before proceeding further, it would be appropriate to extract, in chronological sequence, the various directions issued by the Supreme Court in ***Re: Cognizance for Extension of Limitation, Suo Motu Writ Petition (C) No. 3 of 2020*** during the COVID-19 pandemic, as the interpretation and effect of these successive directions are directly relevant to the issue of limitation arising in the present case.

A. ***In re Cognizance for Extension of Limitation,*** (2020) 19 SCC 10 [hereinafter '***Ist directive***']: On 23rd March 2020, the Supreme Court directed that the period of limitation in all petitions, applications, suits and appeals will stand extended with effect from 15th March 2020 till further orders. The Supreme Court held as under:

> "*To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings.*"

B. ***In re Cognizance for Extension of Limitation***, (2021) 5 SCC 452 [hereinafter '***IInd directive***']: On 08th March 2021, when the COVID-19 pandemic was still prevailing, the Supreme Court directed that the period from 15th March 2020 to 14th March 2021 be excluded for the purposes of limitation and issued the following directions:

> "*1. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 15.03.2021.*
> *2. In cases where the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. In the event the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply.*
> *3. The period from 15.03.2020 till 14.03.2021 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the*

> *Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings*."

C. ***In re Cognizance for Extension of Limitation*** (2021) 18 SCC 250 [hereinafter '***IIIrd directive***']: On 23rd September 2021, the Supreme Court extended the period from 15th March 2020 till 02nd October 2021 and passed the following directions:

> "*8. Therefore, we dispose of the M.A. No.665 of 2021 with the following directions:*
>
> *I. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 02.10.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 03.10.2021.*
>
> *II. In cases where the limitation would have expired during the period between 15.03.2020 till 02.10.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 03.10.2021. In the event the actual balance period of limitation remaining, with effect from 03.10.2021, is greater than 90 days, that longer period shall apply.*
>
> *III. The period from 15.03.2020 till 02.10.2021 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for*

instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

IV. The Government of India shall amend the guidelines for containment zones, to state. "Regulated movement will be allowed for medical emergencies, provision of essential goods and services, and other necessary functions, such as, time bound applications, including for legal purposes, and educational and job-related requirements."

D. ***In re Cognizance for Extension of Limitation*** (2022) 3 SCC 117 [hereinafter '***IVth directive***']: On 10th January 2022, the Supreme Court further extended the period from 15th March 2020 till 28th February 2022 in view of the prevailing conditions and passed the following directions:

> "*5. Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A. No. 21 of 2022 with the following directions:*
>
> *I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.*
>
> *II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.*
>
> *III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90*

days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.

IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings."

(emphasis added)

Submissions on behalf of petitioner

9. *Ms. Rashi Bansal*, counsel for petitioner, has relied upon the following judgments in support of her submissions:

9.1. ***Sagufa Ahmed & Ors. v. Upper Assam Plywood Products Pvt. Ltd. & Ors.*** (Civil Appeal Nos.3007-3008/2020, decided on 18th September 2020): In this case, the Supreme Court was dealing with a challenge to an order passed by the NCLT dismissing an application seeking condonation of delay in filing an appeal. The appellants relied upon *the Supreme Court's directives on limitation during COVID-19*. The Supreme Court held as under:

> "*19. But we do not think that the appellants can take refuge under the above order. What was extended by the above order of this Court was only "the period of limitation" and not the period upto which delay can be condoned in exercise of discretion conferred by the statute. The above order passed by this Court was*

intended to benefit vigilant litigants who were prevented due to the pandemic and the lockdown, from initiating proceedings within the period of limitation prescribed by general or special law. It is needless to point out that the law of limitation finds its root in two latin maxims, one of which is Vigilantibus Non Dormientibus Jura Subveniunt which means that the law will assist only those who are vigilant about their rights and not those who sleep over them."

(emphasis added)

9.1.1. In the opinion of this Court, the factual matrix dealt with by the Supreme Court in the aforesaid matter is distinguishable from the facts of the present case since it was dealing with condonation of delay. The limitation for filing the appeal expired on 18th March 2020, whereas the appeal was filed on 20th July 2020. The lockdown was imposed only on 24th March 2020, and the Court held that there was no impediment to filing the appeal before 18th March 2020.

9.2. ***Prakash Corporates v. Dee Vee Projects Ltd.*** 2022 SCC OnLine SC 180:

9.2.1. Before the Supreme Court, the appellant challenged an order passed by the High Court of Chhattisgarh upholding the order of the Commercial Court, Chhattisgarh, declining the appellant/defendant's prayer for grant of further time to file the written statement. The Commercial Court and the High Court had stated that, in view of the *proviso* to Order VIII Rule 1 of the CPC, as substituted by the Commercial Courts Act, 2015, the defendant's right to file a written statement stood forfeited upon expiry of 120 days. Before the Supreme Court, the appellant/defendant relied upon the ***Supreme Court's directives on limitation during COVID-19***. In its assessment, the Supreme Court, *inter alia,* stated as under:

"28. As regards the operation and effect of the orders passed by this Court in SMWP No. 3 of 2020, noticeable it is that even though in the initial order dated 23-3-2020, this Court provided that the period of limitation in all the proceedings, irrespective of that prescribed under general or special laws, whether condonable or not, shall stand extended w.e.f. 15-3-2020 but, while concluding the matter on 23-9-2021, this Court specifically provided for exclusion of the period from 15-3-2020 till 2-10-2021. A look at the scheme of the Limitation Act, 1963 makes it clear that while extension of prescribed period in relation to an appeal or certain applications has been envisaged under Section 5, the exclusion of time has been provided in the provisions like Sections 12 to 15 thereof. When a particular period is to be excluded in relation to any suit or proceeding, essentially the reason is that such a period is accepted by law to be the one not referable to any indolence on the part of the litigant, but being relatable to either the force of circumstances or other requirements of law (like that of mandatory two months' notice for a suit against the Government [Vide Section 15 of the Limitation Act, 1963.]). The excluded period, as a necessary consequence, results in enlargement of time, over and above the period prescribed.

28.1. Having regard to the purpose for which this Court had exercised the plenary powers under Article 142 of the Constitution of India and issued necessary orders from time to time in SMWP No. 3 of 2020, we are clearly of the view that the period envisaged finally in the order dated 23-9-2021 is required to be excluded in computing the period of limitation even for filing the written statement and even in cases where the delay is otherwise not condonable. It gets perforce reiterated that the orders in SMWP No. 3 of 2020 *were of extraordinary measures in extraordinary circumstances and their operation cannot be curtailed with reference to the ordinary operation of law.*

28.2. In other words, the orders passed by this Court on 23-3-2020, 10-7-2020, 27-4-2021 and 23-9-2021 in SMWP No. 3 of 2020 leave nothing to doubt that special and extraordinary measures were provided by this Court for advancing the cause of justice in the wake of challenges thrown by the pandemic; and their applicability cannot be denied in relation to the period prescribed for filing the written statement. It would be unrealistic and illogical to assume that while this Court has provided for exclusion of period for institution of the suit and therefore, a suit otherwise filed beyond limitation (if the limitation had expired between 15-3-2020 to 2-10-2021) could still be filed within 90 days from 3-10-2021 but the period for filing written statement, if expired during that period, has to operate against the defendant.

28.3. Therefore, in view of the orders passed by this Court in SMWP No. 3 of 2020, we have no hesitation in holding that the time-limit for filing the written statement by the appellant in the subject suit did not come to an end on 6-5-2021."

(emphasis added)

9.2.2. In the opinion of this Court, this decision will also not come to the rescue of the petitioner, considering that the Supreme Court merely clarified that the *IIIrd directive* applied to period for filing the written statement as well. However, the observations of the Supreme Court relating to exclusion of stated period and enlargement of time '*over and above*' the prescribed period is precipitative.

9.3. ***Aditya Khaitan v. IL&FS Financial Services Ltd.*** 2023 SCC

OnLine SC 1241:

9.3.1. A challenge was laid before the Supreme Court against the judgment of the High Court of Calcutta, which dismissed the applications and denied taking the defendant's written statements on record. The High Court had held that the applications could not be allowed as the period of 30 days for filing the written statements had expired on 8th March 2020, i.e. prior to 15th March 2020, from which date the *IInd directive* was made applicable. It was contended that the further period of 90 days had not expired when the *IInd directive* was passed. The High Court, therefore, held as under:

> "*22. A perusal of para 2.3 of the above order shows that this Court directed that the period from 15.03.2020 till 14.03.2021 will stand excluded in computing:-*
> *a) the period prescribed under 23(4) and 29-A of the Arbitration and Conciliation Act, 1996;*
> *b) Section 12-A of the Commercial Courts Act, 2015;*
> *c) provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881; and*
> *(d) any other laws which prescribe period of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.*
> *23. As would be clear from hereinabove, the very basis of the judgment in Sagufa Ahmed (supra) that under the 23.03.2020 order, only the period of limitation has been extended and not the period up to which delay can be condoned, has been taken away by expanding the protection by excluding the period even for computing outer limits within which the court or tribunal can condone delay. This is an important subsequent aspect which has a great bearing in deciding the present controversy.*"
>
> (emphasis added)

9.3.2. This decision of the Supreme Court merely clarifies what the various

COVID-19 directives had provided and the extent to which they would apply to the extension of the period for filing written statements. On the facts of the case, the Court held that the 30-day period expired on 8th March 2020 and the 120-day period expired on 6th June 2020. The application for extension was filed on 20th January 2021. Therefore, applying the *IInd directive*, the application was filed within time. The Court specifically held that the principle underlying the *IInd directive* would enure to the benefit of the applicants.

9.4. ***<u>Arif Azim Co. Ltd. v. Aptech Ltd</u>.*** (2024) 5 SCC 313:

9.4.1. Issue of limitation for claiming an amount for recovery was before the Supreme Court. The Court noted that ordinarily the period of limitation available to the plaintiff for raising a claim would come to an end after the expiry of three years, i.e. on 27th March 2021. However, due to the COVID directives, the period from 15th March 2020 till 28th February 2022 was considered to be excluded. Accordingly, the balance period of limitation available on 15th March 2020 would become available from 01st March 2022. The Supreme Court, taking a cue from the decision in ***Prakash Corporates*** (*supra*), stated as under:

> "*84. The effect of the above-referred order of this Court in the facts of the present case is that the balance limitation left on 15.03.2020 would become available w.e.f. 01.03.2022. The balance period of limitation remaining on 15.03.2020 can be calculated by computing the number of days between 15.03.2020 and 27.03.2021, which is the day when the limitation period would have come to an end under ordinary circumstances. <u>The balance period thus comes to 1 year 13 days. This period of 1 year 13 days becomes available to the petitioner from 01.03.2022, thereby meaning that the limitation period available to the</u>*

<u>petitioner for invoking arbitration proceedings would have come to an end on 13.03.2023</u>.”

(emphasis added)

9.4.2. However, this issue may not yet again provide to the petitioner's advantage, considering that the matter before the Supreme Court in ***Arif Azim*** (*supra*) related to an application filed under Section 11 (6) of Arbitration and Conciliation Act, 1996 (‘***A&C Act***’) to appoint an Arbitrator. The Supreme Court was considering the issue of whether the Limitation Act, 1963 is applicable to an application filed under Section 11 (6) of A&C Act.

9.4.3. The Court responded to this question, stating that three years’ period was very long for filing an application under Section 11 (6) of A&C Act and opined that Parliament should consider bringing an amendment to the Act, prescribing a specific period of limitation.

9.5. ***<u>Enforcement Directorate v. Vikas WSP Ltd.</u>*** 2025 SCC OnLine Del 6163:

9.5.1. The Division Bench of this Court was dealing with an issue as to whether the Supreme Court’s directives would apply to proceedings under Section 5 of the Prevention of Money Laundering Act, 2002 (‘***PMLA***’), which mandates that provisional attachment must be confirmed within a maximum period of 180 days. While considering the same, the Court stated as under, which would also present an interpretation of the Supreme Court Directives:

“(n). Further, in cases where the limitation expired between 15.03.2020 and 28.02.2022, the Court granted all persons a fresh limitation period of 90 days from 01.03.2022, irrespective of the actual balance period

otherwise available.
(o). <u>If, however, the balance period of limitation available on 01.03.2022 exceeded 90 days, then such longer period would apply</u>."

(emphasis added)

<u>Submissions on behalf of respondent</u>

10. Counsel for the respondent relied upon ***Sunil Kumar Gupta v. Vatsal Mittal*** 2022 SCC OnLine Del 711, wherein a Single Bench of this Court, while dealing with a petition filed by the defendant, considered a case where the Trial Court had taken the written statement off the record on the ground that, according to the defendant's own case, noted that the summons had been served on 23rd March 2021 and the written statement had been filed on 26th August 2021, i.e. after expiry of the maximum period prescribed under Order VIII Rule 1 of the CPC, as applicable to Commercial Courts. The appellant pleaded the benefit of the *IVth directive*. The High Court held that the entire period from 23rd March 2021 to 26th July 2021 fell within the period contemplated by the Supreme Court in *IVth directive* and, therefore, stood excluded.

11. Certain other decisions, though not cited by counsel, useful for establishing an interpretation are as under:

11.1. ***<u>Chroma-Ator Energy Systems Pvt. Ltd. (Formerly M/s Prashant Generator Co.) v. Indraprastha Gas Limited</u>*** 2024:DHC:2569.

11.1.1. The matter concerned a petition filed under Section 11(6) of the A&C Act, 1996, wherein a Single Judge of this Court was dealing with a plea whether the petition was barred by limitation. The invocation of arbitration was dated 04th November 2022, whereas the cause of action had arisen in 2018. Reliance was placed on the extension of the period of limitation pursuant to the COVID-19 directives.

11.1.2. This Court relied upon ***Arif Azim*** (*supra*), a decision of the Supreme Court. Applying the said interpretation, and considering that the limitation period had expired on 7th November 2021, the period from 15th March 2020 to 7th November 2021 was excluded and the limitation period recommenced from 1st March 2022. The invocation of arbitration was, therefore, held not to be barred by limitation.

11.2. ***Shri Jai Prakash Tayal & Ors. v. Smt Sunita Aggarwal*** 2026:DHC:7031-DB:

11.2.1. In an appeal against the dismissal of an application under Order VII Rule 11 of the CPC, the issue before the Division Bench was whether the suit, instituted on 27th May 2024, was barred by limitation, despite the cause of action having arisen on 8th January 2020. The Division Bench held that the period from 15th March 2020 to 28th February 2022 would stand excluded and that the period of limitation for the suit would consequently stand extended till December 2024. Since the suit was instituted on 27th May 2024, it was, therefore, held to be within the prescribed period of limitation.

Analysis

12. In the facts of this case, there is no dispute regarding the starting point of the period of limitation, i.e. 24th October 2018. Accordingly, the limitation would expire on 23rd October 2021, which falls within the period of 15th March 2020 to 28th February 2022. Therefore, *IVth directive* would apply.

13. *Ms. Rashi Bansal* states that, as per *IVth directive*, only a limitation

period of 90 days would be available from 01st March 2022. The suit was filed on 9th October 2023, which is approximately 19 months from the post-COVID period, starting from 01st March 2022.

14. However, in the opinion of this Court, if one takes *IVth directive* into consideration in its true spirit and intent, then the full period from 15th March 2020 till 28th February 2022, which is approximately 23 months and 13 days, would be available from 28th February 2022 and, therefore, the suit would be filed within the period of limitation.

15. This aspect has already been addressed by the Division Bench in ***Shri Jai Prakash Tayal*** (*supra*). However, even if a cue is taken from the observations in ***Prakash Corporates*** (*supra*), the interpretation adopted by the Supreme Court itself supports the same finding.

16. In ***Prakash Corporates*** (*supra*), the Supreme Court has clarified that where a particular period is liable to be excluded in relation to any suit or proceeding, owing either to circumstances or to the requirements of law, such excluded period results in an enlargement of time '*over and above'* the limitation period otherwise prescribed.

17. The assertion of *Ms. Bansal* that if the limitation period got exhausted during the stated period from 15th March 2020 till 28th February 2022 ('hereinafter ***COVID period***'), then only 90 days would be available from 01st March 2022, does not take into account certain aspects. ***First***, the primary directive issued by the Supreme Court, which was stated categorically in the *IInd directive* and reiterated in the *IIIrd and IVth directives*, was that, in computing the period of limitation for any suit, the COVID period would stand excluded. As per the *IInd directive*, the period ended on 14th March 2021; as per the *IIIrd directive*, it was extended till

02nd October 2021; and by the *IVth directive*, till 28th February 2022.

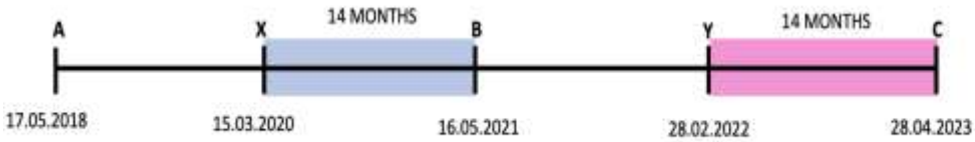
18. Once a directive for exclusion has been given, the period which fell within the COVID period would automatically become available from 01st March 2022. This would be in consonance with the view of the Supreme Court in ***Prakash Corporates*** (*supra*), on the essential principle that exclusion of a period results in enlargement of time '*over and above'* the period prescribed.

19. The issue under consideration is whether the 2nd part of the *IInd, IIIrd and IVth directives* curtailed the period, so added by exclusion, to only 90 days. It would be contrary to logic and reason to hold that, having provided for exclusion of the COVID period and consequent enlargement of the limitation period, the Supreme Court intended to restrict the benefit of such exclusion to a maximum period of 90 days. Such an interpretation would lead to anomalous and incongruous results.

20. The consequences of such an interpretation become evident from the following illustrations:

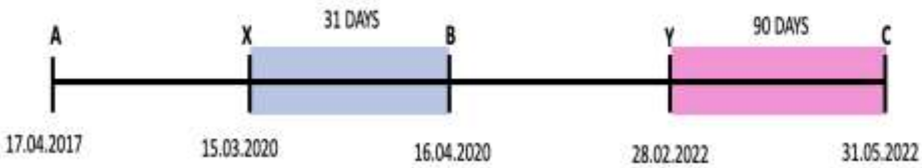
i. ***Limitation commenced before the excluded period and the balance remaining is more than 90 days after completion of the period:***

As an illustration, if limitation in a suit commenced on 17th May 2018, the limitation period would expire on 16th May 2021, i.e. during the excluded period. Since the balance period remaining as on 15th March 2020 is more than 90 days, the longer period would apply. If *Ms. Bansal's* contention is accepted, only 90 days would apply. This would, in effect, mean that a lesser period has been made available by the Supreme Court to the litigant. Diagrammatic representation of the same is provided below for easy reference:



ii. ***<u>Limitation commenced before the excluded period and the balance remaining is less than 90 days</u>***:

As an illustration, if limitation commenced on 17th April 2017, with a projected expiry on 16th April 2020, then 31 days remained, which would expire during the excluded period. Since the balance period is less than 90 days, the balance period of 31 days would now be extended upto 90 days once limitation resumes on 01st March 2022. *Ms. Bansal* does not dispute this interpretation. Diagrammatic representation of the same is provided below for easy reference:



A =Limitation period starts
B = Actual Limitation ends
C= Extended Limitation ends
X = COVID Period starts
Y = COVID Period ends
PERIOD EXCLUDED
PERIOD EXTENDED/AVAILABLE

iii. ***<u>Limitation commenced during the COVID period</u>***:

As an illustration, if limitation commenced on 01st August 2020 and, but for the exclusion, would have expired on 31st July 2023, only part of the limitation period falls within the excluded period. In such a case, the period which elapsed during the excluded period, i.e. one year and six months, would be added to the total limitation period and limitation would stand extended till 31st January 2025. Diagrammatic representation of the same is provided below for easy reference:

21. It is quite evident that 90 days' special period directed by the Supreme Court was intended for cases where limitation would get exhausted within a month or so from commencement of the COVID period and, therefore, to ensure that litigants had a reasonable period to resume filing activity, after the end of the COVID period, a period of 90 days was provided. This would mean that, where limitation would have expired

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A =Limitation period starts
B = Actual Limitation ends
C= Extended Limitation ends
X = COVID Period starts
Y = COVID Period ends
PERIOD EXCLUDED
PERIOD EXTENDED/AVAILABLE

within 90 days from 15th March 2020, the litigant would still get a full period of 90 days additionally after 01st March 2022. This would not mean that, where a period of limitation exceeding 90 days got consumed during the COVID period, only a fixed period of 90 days would become available. For this purpose, the Supreme Court gave the clarification in the 2nd part of *third paragraph* of the directive, stating that if a larger period was available, the same would apply.

22. To elucidate this further, the 1st part of *third paragraph* of *IVth directive* states that "*In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining all persons shall have a limitation period of 90 days from 01.03.2022.*"

23. This relates to cases where the actual balance period of limitation remaining from 15th March 2020 was less than 90 days, and limitation would have got exhausted during that period. The Supreme Court gave "***all persons*** *a limitation period of 90 days from 01st March 2022*". The significance of the expression "*all persons*" used by the Supreme Court clearly relates to all persons falling within the category of cases where less than 90 days of limitation remained after the end of the COVID period.

24. For the others, the 2nd part of the directive in *third paragraph* would apply, which states that "*In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply*".

25. The Supreme Court, very specifically, stated that if the actual balance period remaining was greater than 90 days, the *longer period would apply*.

26. The Supreme Court, therefore, provided a bifurcation between two situations where limitation was getting exhausted during the COVID period. For those who had a balance period of more than 90 days, the longer period would apply, whereas for all those who did not fall within that category, a fixed period of 90 days was provided.

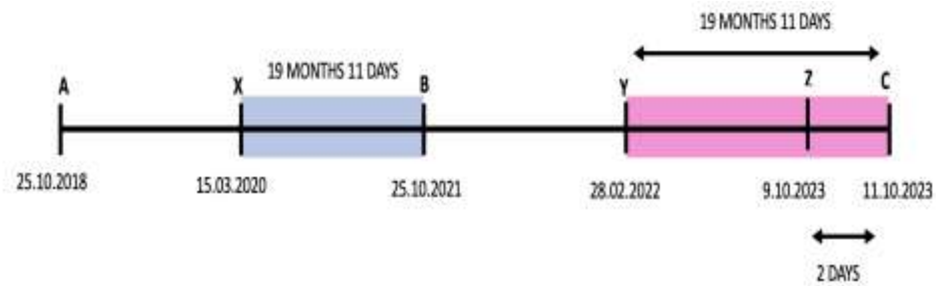
Accepting *Ms. Bansal's* argument would, in fact, mean that litigants would have had to scramble to file a suit/petition within the 90-day period after the end of the COVID period, i.e. after 28th February 2022, irrespective of the fact that they may have lost a year or so of limitation during the COVID period. This would, in the opinion of this Court, be an illogical and irrational interpretation of the *Supreme Court directives*.

27. As categorically provided in the *third paragraph* itself of the *IVth directive*, where limitation had commenced during the COVID period and the balance period of limitation remaining on 15th March 2020 was more than 90 days, the entire balance period would be available from 1st March 2022. The intent behind the directions was to ensure that an aggrieved person was given the benefit of the entire balance period available to institute the proceedings and to give them sufficient time to file a proceeding.

28. As regards the other contention raised by *Ms. Bansal* that if the intention of the Supreme Court had been to extend the period of limitation by the balance period remaining as on 15th March 2020 and to add the same from 1st March 2022, the Supreme Court would have issued a specific direction to that effect, as it did in the *fourth paragraph* of the *IVth directive* with respect to matters pertaining to Arbitration and Negotiable Instruments. However, the *fourth paragraph* of the directive also makes it

abundantly clear that for Arbitration and Negotiable Instruments, the COVID period, i.e. from 15th March 2020 to 28th February 2022, will '*also*' stand excluded. Use of the phrase '*also*' further embellishes the Supreme Court's intent that whole COVID period ought to be excluded from limitation. Ergo, balance fall within the excluded period would necessarily be added post completion of COVID period.

29. In the present case, the cause of action arose on 25th October 2018 and, accordingly, the actual period of limitation would end on 25th October 2021. The period which got exhausted during the COVID period was 19 months and 11 days. Applying the observation made hereinabove, the said period, i.e. 19 months and 11 days, would be available from 01st March 2022 and would get exhausted on 11th October 2023. Suit was filed just before, on 09th October 2023, and would, therefore, be within limitation. Diagrammatic representation of the same is provided below for easy reference:



30. Accordingly, the Court does not find the impugned order of the Trial Court amiss and the petition stands dismissed.

A = Limitation period starts
B = Actual Limitation ends
C= Extended Limitation ends
X = COVID Period starts
Y = COVID Period ends
Z = Date of filing of suit

PERIOD EXCLUDED

PERIOD EXTENDED/AVAILABLE

31. Pending applications, if any, are rendered infructuous.

32. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

SEPTEMBER 25, 2026/ak/bp