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

Date of Decision: 26th November, 2026
Uploaded On: 27th November, 2026

\# **CNR No. DLHC011108072025**

\+ **RFA(COMM) 781/2026, CM APPL. 81345/2026, CM APPL. 81346/2026, CM APPL. 81347/2026 & CM APPL. 81348/2026**

SARTAJ HOTELS APARTMENTS AND VILLAS PVT. LTD

.....Appellant

Through: Mr. N.P Singh, Advocate.

versus

INDOSPIRIT MARKETING PVT. LTD .....Respondent

Through: Mr. Anand Shankar Jha, Mr. Sachin Mintri and Ms. Nandika Kaushik, Advocates.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE DINESH BHATT

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.

2. The present appeal has been filed by the Appellant under Section 13 of the Commercial Courts Act, 2015 read with Section 96 of the Civil Procedure Code, 1908, *inter alia*, against the judgement and decree dated 15th April, 2025, passed by the ld. District Judge, Commercial Court-03, South-East District, Saket Courts, New Delhi in **CS (COMM.) No. 364/2024** titled as "***Indospirit Marketing Pvt. Ltd. v. Sartaj Hotels Apartments & Villas Pvt.***

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Ltd."

3. *Vide* the impugned judgement, the suit of the Respondent-Plaintiff (*hereinafter* 'Respondent') was decreed for Rs.5,96,751/- in the following terms:-

> *"28. In view of above discussions, the plaintiff's suit is decreed for a sum of Rs. 5,96,751/- along with interest @ 12% per annum from 24.01.2021 till the date of realization. Cost of the suit be awarded to the plaintiff. Decree sheet be drawn accordingly.*
> *File be consigned to record room after due compliance."*

4. The case of the Respondent was that he was engaged in the sale of alcoholic beverages. The Appellant-Defendant (*hereinafter* 'Appellant') had procured certain alcoholic beverages from 2019 till 2021. In respect of two purchase orders and invoices, the amount was stated to be outstanding - the details of which are as under:-

Purchase Order No. and Date	Bill No. and Date	Amount Payable (In INR)	Amount paid (In INR)	Balance Amount (in INR)
PO180121017219 dated 18 January 2021	IMPL-230121-4106 dated 23 January 2021	5,05,794	31,758	4,74,036
PO220121021776 dated 22 January 2021	IMPL-240121-4132 dated 24 January 2021	1,22,715	-	1,22,715
TOTAL PRINCIPAL AMOUNT OUTSTANDING				5,96,751

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5. In view of non-payment of the outstanding amount, the Respondent filed a suit for recovery of a sum of Rs.10,53,013/-, which included the principal sum along with interest. The said suit proceeded to trial and the Commercial Court considered the written statement filed by the Appellant wherein the Appellant took the stand that he had made payment of all goods as against the transport permits which was produced. The following issues were then framed:-

> *"1. Whether the plaintiff is entitled to decree for a sum of Rs. 10,53, 013/- against the defendant, as prayed for?*
> *OPP*
> *2. Whether the plaintiff is entitled to interest. If yest, at what rate and for which period?*
> *OPP*
> *3. Relief."*

6. The Respondent and the Appellant produced one witness each, PW1 and DW1. After hearing the ld. Counsel for the parties and perusing the record, the ld. Trial Court came to the conclusion that the Respondent's claim is valid. The relevant portions of the ld. Trial Court judgement are set out below:-

> *"20. My issuewise findings are as under :*
> *"1. Whether the plaintiff is entitled to decree for a sum of Rs. 10,53, 013/- against the defendant, as prayed for?*
> *OPP*
> *2. Whether the plaintiff is entitled to interest. If yes, at what rate and for which period?*
> *OPP*
> *The case of the plaintiff is that in pursuance to the purchase orders of the defendant through the Excise Supply Chain Information Management System Portal of Delhi Excise Department of the defendant, plaintiff supplied the liquor to the defendant from time to time*

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since April, 2019 and the last purchase order is of 24.01.2021 and the last payment of Rs. 4,39,470/- was made on 20.02.2021. The defendant has not made the payment of the invoice dt. 23.01.2021 of Rs. 5,05,794/- (Ex.PW1/3) and invoice dt. 24.01.2021 of Rs. 1,22,715/- (Ex.PW1/4). Against the purchase orders, the transport permits dt. 22.01.2021 and 23.01.2021 (Ex.PW1/5 and Ex.PW1/6) are issued. The defendant in affidavit of admission denial of documents admitted the transport permits Ex.PW1/5 and Ex.PW1/6, however denied the invoices Ex.PW1/3 & Ex.PW1/4. It is pertinent to notice that as per invoices Ex.PW1/3 & Ex.PW1/4, total number of 414 and 36 bottles were sent through these invoices which is also found matching with the admitted transport permits Ex.PW1/5 & Ex.PW1/6 in terms of the purchase orders.

21. In written statement, the defendant raised the plea that the present transaction are under the excise policy which has long been expired, and the dues are paid and settled with the defendant. The payments were made by the defendant for all the goods procured against the transport permits issued by the Excise Department. The defendant admitted transport permits (Ex.PW1/5 & Ex.PW1/6), however not able to show any document to prove that the payments relating to the present transport permits has been made. The second plea is that the against the dues of invoice of 2021, the suit cannot be filed in 2024 as the excise policy already been expired. Undisputably, the excise policy was expired after the present transaction not prior to the present transaction. The liability over the defendant is prior to the expiry of the excise policy. Furthermore, the invoices are of January, 2021 and the present suit is filed on 15.05.2024, however due to Covid period the limitation from 15.03.2020 to 28.02.2022 stands excluded, hence, the suit is filed within limitation.

22. The defendant however examined DW1 Parshotam Kumar Goel who only exhibited the Board Resolution

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and not any other document to substantiate the plea of the defendant. The defendant in written statement raised the plea that they have made the entire payment and furthermore, they are not liable to pay the payment due to expiry of the excise policy. However, in affidavit of evidence Ex.DW1/A, the new case was set up by the defendant in which he stated that one Sanjeev Kumar from plaintiff company arrived at the office of the defendant and agreed to issue the credit notes in lieu of breakage and the defendant made the full payment against the transport permits believing on the assurance of the plaintiff. The defendant company did not place any orders at all after 25.01.2021. This itself suggests that the defendant has placed the orders prior to 25.01.2021 and the present invoices are also of 23.01.2021 and 24.01.2021. There is nothing in his affidavit of evidence of DW1 that the goods in question were not delivered.

23. It is the case of the defendant as per affidavit of evidence Ex.DW1/A that defendant company did not raise any order after 25.01.2021 when the accounts were settled with the plaintiff company, however defendant did not file any document to show the settlement. It is also the case of the defendant that if the plaintiff had issued the pending credit notes as per settlement, they won't be any outstanding as alleged by the plaintiff. However, DW1 in cross examination stated that he do not remember whether they keep any such record or not. He also stated that there were damaged goods between 2019 to 2021, however could not show any credit note. The defendant has changed his defence in the affidavit of evidence which is not permissible. Even otherwise, the defendant unable to prove its defence.

24. The defendant try to discredit the case of the plaintiff on the basis of the fact that there is no proof of delivery by the plaintiff for supply of the goods. However, from overall appreciation of evidence, it cannot be inferred

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that the goods were not supplied to the defendant. The defendant's only plea in affidavit of evidence (Ex.DW1/A) is non-adjustment of the damaged goods through credit notes, however could not substantiate such plea before the court.

25. The defendant admitted the receiving of the legal notice dt. 29.02.2023 (Ex.PW1/8) demanding a payment of Rs. 5,96,751/07p, and along with the written statement also filed the reply dt. 26.10.2023 sent through speed post, courier as well as email, however not filed any proof of speed post or courier. In this reply dt. 26.10.2023, the defendant never took the stand that they have not received the material in terms of the invoices, however raised the plea that inspite of their several reminders, the plaintiff company failed to do reconciliation of accounts but not substantiated the said fact through any documentary evidence. The said reply dt. 26.10.2023 however cannot be considered because not exhibited during the evidence, even otherwise this reply do not in any manner enhance the case of the defendant.

26. The defendant not filed any statement of accounts or any settlement, however put PW1 in cross examination the settlement arrived on 25.01.2021 in which the plaintiff company agreed to provide credit note of Rs. 5,96,753/- to which the PW1 stated that he do not remember any kind of settlement. The said settlement is not placed on record neither pleaded in the written statement, therefore, cannot be taken into consideration. It is put to PW1 to have been paid the settlement amount on 25.01.2021, 31.01.2021, 11.02.2021, 16.02.2021 and 20.02.2021, however PW1 stated he do not remember of any such payment or settlement. The defendant has not placed any record of settlement or payment. The defendant not placed any document except the Board Resolution in defence. The case of the defendant in evidence is beyond pleading. Even otherwise, the defendant unable to prove his defence as raised in the

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defence evidence. On the other hand, the plaintiff able to show its liability through the invoices, transport permits as well as the ledger statement along with the legal notice.

27. The plaintiff is claiming the principal amount of Rs. 5,96,751/- dues on account of the invoices (Ex.PW1/3 & Ex.PW1/4) and a sum of Rs. 4,56,262/- on account of interest @ 24% per annum. The invoices (Ex.PW1/3 & Ex.PW1/4) showing the terms and conditions. The relevant terms and conditions "payment either cash on delivery or interest @ 24% will be charged for the customer heavy credit facility." It is not the case of the plaintiff that the defendant has obtained the credit facility, however the case of the plaintiff is that the defendant has not made the payment of the invoices in question. Therefore, in these circumstances, the rate of interest @ 24% per annum appears excessive. The plaintiff is therefore entitled for reasonable interest @ 12% per annum from 24.01.2021 till the date of realization on the principal amount of Rs. 5,96,751/-. Accordingly, issue nos. 1 & 2 are decided in favour of the plaintiff and against the defendant.

RELIEF

28. In view of above discussions, the plaintiff's suit is decreed for a sum of Rs. 5,96,751/- along with interest @ 12% per annum from 24.01.2021 till the date of realization. Cost of the suit be awarded to the plaintiff. Decree sheet be drawn accordingly.

File be consigned to record room after due compliance."

7. Today, ld. Counsel for the Appellant, Mr. N.P. Singh submits that the invoices and the transport permit were not duly proved by the Respondent. According to him, the transport permit was a copy and the same was not exhibited before the Local Commissioner. Moreover, the first demand by the Respondent was on 29th September, 2023 through a legal notice, however,

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interest has been granted at 12% from 2021 onwards.

8. On the other hand, ld. Counsel for the Respondent submits that the appeal, though filed within time, is belated in refiling of more than 521 days and no sufficient cause has been shown. Ld. Counsel for the Respondent submits that it is only when the execution proceedings were filed and warrants were issued and attachment orders were being executed that the Appellant has pressed its appeal and filed with the condonation of delay in refiling.

9. The Court has heard both parties on the merits of the matter as well as on the question of limitation. The trial court has, after appreciation of the evidence arrived, *inter alia*, at the following findings:

- That the Invoices and the Transport Permits are duly matching in terms of supply, value etc.,
- That the Defendant/Appellant has in the evidence tried to set up a new plea of breakage of certain goods and credit notes issued in respect thereof. However, no documents have been filed in support of the same;
- The Defendant's witness relied upon some settlement but no document was produced in support of the same.
- Even in the reply to the legal notice the Defendant did not state that the goods were not supplied.

Thus, the trial court found in favour of the Plaintiff/Respondent and disbelieved the defenses put up by the Appellant/Defendant.

10. In this appeal, after some hearing, ld. Counsel for the parties are willing to settle this dispute, as the Appellant has submitted that they would be willing to make a payment of lump sum of Rs.8,00,000/- within a period of 4 weeks.

11. After considering the overall fact and circumstances, the appeal is disposed off in the following terms:-

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i) The Appellant shall pay to the Respondent the agreed sum of Rs.8,00,000/- by 5th January, 2027 subject to which the decree shall then be deemed to be satisfied.

ii) If the said amount is not paid by the date fixed by this Court, the decree as passed by the ld. Trial Court shall come into operation and the Respondent is free to execute the same in accordance with the law, as this Court is of the opinion that the impugned order does not warrant interference both on the grounds of delay as also on merits.

12. The appeal is disposed of in the following terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

DINESH BHATT
JUDGE

NOVEMBER 26, 2026/MR/nd

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