



2025:DHC:4613-DB



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

Date of decision: 27.05.2025

+ RFA(COMM) 323/2025
GREATECH FASHIONS

.....Appellant

Through: Mr. Navdeep Singh, Adv.

versus

S K INDUSTRIES

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

CM APPL. 33430/2025

1. Allowed, subject to all just exceptions.

RFA(COMM) 323/2025

2. This appeal has been filed challenging the Order dated 08.05.2025, passed by the learned District Judge, Commercial Court-05, South District, Saket Courts, New Delhi, in CS (COMM) No. 206/2025, titled *Greatech Fashions v. S.K. Industries*, rejecting the plaint of the suit filed by the appellant as being barred by limitation.

3. The above suit was filed by the appellant seeking recovery of the amount of Rs. 5,44,961/-, along with *pendente lite* and future interest at the rate of 18% per annum from the respondent herein. It is the case of the appellant that the appellant is a distributor of



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engineering plastic. The respondent had approached the appellant for the purchase of the said goods, whereafter the appellant supplied the same to the respondent *vide* invoice dated 20.09.2018. The summary of the transactions is given by the appellant as below:

“

S.NO.	Tax invoice No.	Date	Amount (Rs.)
1.	Opening Balance		
2.	0440	20.09.2018	11,25,130
3.	Credit Note	17.11.2018	5,46,411
	Total Sale Amount (A)		5,78,719
PAYMENT RECEIVED			
S.No.	Date		Amount (Rs.)
1.	03.12.2018-Chq. No. 502200 dt. 30.11.2018		5,62,790
2.	03.12.2018-Chq. No. 502200 dt. 30.11.2018-REJECTED		5,62,790
3.	15.02.2019		1,00,000
4.	30.04.2019		1,00,000
5.	30.04.2019		1,00,000
6.	16.05.2019		1,00,000
7.	03.08.2019		1,00,000
	Total (B)		3,00,000
	Outstanding Amount (A-B)		2,78,719

”

4. The appellant further claimed that due to the outbreak of the COVID-19 pandemic, the appellant could not initiate any legal action against the respondent and, therefore, sought exclusion of the period between 15.03.2020 to 28.02.2022 for the purposes of calculating the limitation period.

5. It was claimed that the appellant issued a legal notice dated 24.06.2022 to the respondent.

6. In the said suit, the appellant pleaded the cause of action for filing the suit as under:



for appearance of the Defendant for Pre Institution Mediation was scheduled for 05.03.2025, however the Defendant has not appeared for the Pre-Institution Mediation on 05.03.2025 as on serving the notice to the Defendant. Further, the cause of action arose on 05.04.2025 when the Defendant did not appear again for pre mediation. Further Cause of action arose when Non-starter report dated 05.04.2025 was received by the Plaintiff on 16.04.2025. That cause of continues as on date as the admitted outstanding amount as stated herein above is still due to the Plaintiff against the Defendant and the Plaintiff is within the prescribed period of 3 years by excluding the time period between 15.03.2020 to 28.02.2022 (covid period excluded in terms of the Supreme Court's order dated 10.01.2022 on limitation)''

7. As noted hereinabove, the learned District Judge has rejected the plaint as being barred by limitation. The learned District Judge observed that in the legal notice, there is no mention by the appellant of any previous settlement talks going on between the parties and, therefore, the limitation for filing the suit would not be extended.

8. The learned counsel for the appellant, placing reliance on the judgment of this Court in **Fortune Builders (P) Ltd. v. Blue Star Ltd.**, 2022 SCC OnLine Del 975, passed by a learned Single Judge of this Court, submits that it is only when the talks of settlement break and a legal notice is issued for the recovery of the amount, that the period of limitation would commence. He submits that the suit was, therefore, filed within the period of limitation.

9. We are unable to agree with the said submission made by the learned counsel for the appellant. Admittedly, the last payment made



by the respondent against the supply was on 03.08.2019, that is, prior to the outbreak of the COVID-19 pandemic and the order passed by the Supreme Court granting extension of the period of limitation.

10. Thereafter, though in the plaint it is stated that there were certain talks of settlement between the parties, apart from the fact that there is no proof thereof filed with the plaint, in any case, such talks cannot extend the period of limitation. The period of limitation can be extended only under certain circumstances as mentioned in the Limitation Act, 1963, one of them being a written acknowledgment of the debt or a part payment made within the period of limitation. None of those circumstances are made out by the appellant in the present case. Equally, the issuance of a legal notice does not lead to the commencement of a fresh period of limitation.

11. Accordingly, the suit, which had been filed on or about 22.05.2025, even after excluding the period by which limitation stood extended under orders of the Supreme Court, was clearly barred by limitation and the plaint has been rightly rejected by the learned District Judge.

12. Reliance on the judgment of this Court in *Fortune Builders* (supra) is also ill-founded, inasmuch as, in the said case, as duly noted by the learned Single Judge of this Court, the work from which the transaction/dispute arose was still pending and the parties therein had raised competing claims *vide* the legal notices and their respective replies. It was in those facts that the learned Single Judge had held that the final disputes between the parties therein ultimately crystallised and came to be raised by the respondent therein in its legal notice. The



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same is not the situation in the present case.

13. In view of the above, we find not merit in the present appeal.

The same is accordingly dismissed.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

MAY 27, 2025/rv/Vs

Click here to check corrigendum, if any