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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 5th August, 2026Uploaded on: 7th August, 2026

CNR No. DLHC010323792026

+ FAO (COMM) 202/2026

BC INFRA PROJECTS PRIVATE LIMITED THROUGH ITS
DIRECTOR MR. ROODRESH LUTHRAAppellantThrough: Mr. Shayuk Kumar & Ms. Mansi
Bidhuri, Advs. (M: 85956 15868)

versus

ANINDYA INFRATECH PVT. LTD. THROUGH ITS MANAGING
DIRECTOR MR. APURVA PRASADRespondentThrough: Mr. Akash Verma, Mrs. Priyanka
Basyan, Mr. Priyesh Singh, Advs. (M:
9718712321)

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE VIKAS MAHAJAN

Prathiba M. Singh, J. (Oral)

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, *inter alia*, assailing the impugned order dated 12th May, 2026 passed by the Id. District Judge, Commercial Court-02, North-West, Rohini Courts in **CS(COMM) 853/2025** titled '**BC Infra Projects Pvt. Ltd. v. Anindya Infratech Pvt. Ltd.**' (hereinafter, 'the impugned order').
3. *Vide* the impugned order, the Id. Commercial Court has observed as under:



“12.05.2026

Present: Ms. Muskan, Ld. counsel for plaintiff through VC.

Sh. Akash Verma and Ms. Priyanka, Ld. counsels for defendant.

As per service report, the defendant was served through e-summons on 18.02.2026.

Ld. Counsel for defendant submits that he has received the complete set of paper book.

Let WS be filed by the defendant within statutory period treating the commencement of period of limitation for filing the WS to be today, with advance copy to the other side who may file replication thereto within four weeks thereafter.

Let pleadings in the matter be completed.

List for further consideration on 15.09.2026.”

4. The short issue that has arisen in the present appeal is as to whether the time for filing of written statement, under the Commercial Courts Act, 2015 would be taken from the date of service of summons or from the date when the Defendant enters appearance before the Court for the first time.
5. This issue is no longer *res integra* and has been decided by the Supreme Court as also in various decisions of this Court.
6. Under the Commercial Courts Act, 2015, the Amendment of the first schedule pertaining to Order V Rule 1 is as under:

“(A) in the Order V, in Rule 1, in sub-rule (1), for the second proviso, the following proviso shall be substituted, namely:—

“Provided further that where the defendant fails to file the



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.”;

7. The aforesaid provision stipulates that the Defendant is required to file the written statement within a period of 30 days, and if the same is not filed within the initial period of 30 days, for specific reasons to be recorded in writing, the period may be extended up to 120 days from the date of service of summons.

8. The provision itself leaves no ambiguity as regards to the date from which the limitation for filing the written statement commences, *i.e., **the date of service of summons.***

9. This has also been clearly held by the Supreme Court in ***M/s SCG Contracts India Private Limited v. K.S. Chamankar Infrastructure Private Limited & Ors., (2019) 12 SCC 210*** wherein the Supreme Court has categorically held as under:

“A perusal of these provisions would show that ordinarily a written statement is to be filed within a period of 30 days. However, grace period of a further 90 days is granted which the Court may employ for reasons to be recorded in writing and payment of such costs as it deems fit to allow such written statement to come on record. What is of great importance is the fact that beyond 120 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. This is further buttressed by the proviso in Order VIII Rule 10 also adding that the Court has no further power to extend the time beyond this period of 120 days.

xxx

11) We are of the view that the view taken by the Delhi High Court in these judgments is correct in view of the fact that the consequence of forfeiting a right to file the written statement; non-extension of any further time; and the fact that the Court shall not allow the written statement to be taken on record all points to the fact that the earlier law on Order VIII Rule 1 on the filing of written statement under Order VIII Rule 1 has now been set at naught.”

10. The decision in *M/s SCG Contracts India Private Limited (Supra)* has also been considered by the Supreme Court in another decision being *Civil Appeal Nos.1318/2022* titled ‘*Prakash Corporates v. Dee Vee Projects Limited*’, wherein the view taken in *SCG (supra)* has been confirmed. The relevant extract from the said judgement is set out below:

“[...]

Time limit for filing written statement and consequences of default

16. For dealing with the rival submissions, in the first place, we need to take into account the time limits for filing written statement in a suit governed by the provisions of the Commercial Courts Act, 2015. As noticed, by virtue of Section 16 thereof, the Commercial Court is to follow the provisions of CPC as amended by the Act in the trial of a suit in respect to a Commercial dispute of a Specified Value. The relevant provisions contained in Order V Rule 1, Order VIII Rule 1 and



Order VIII Rule 10 CPC, have been reproduced hereinabove; and it is manifest that the said provisions not only envisage strict timelines for filing of written statement but even provide for consequences of default, while restricting the powers of the Court to extend the time for filing written statement beyond the period prescribed. Tersely put, as per the mandate of the said provisions: (a) the defendant is under an obligation to file the written statement of his defence within 30 days of service of summons; (b) if he fails to file the written statement within the said period of 30 days, he may be allowed to file the written statement on such other day as the Court may specify for reasons to be recorded in writing and on payment of such costs as the Court may impose but this other day, in any case, cannot go beyond 120 days from the date of service of summons; **(c) on expiry of 120th day from the date of service of summons, the defendant forfeits the right to file the written statement and no Court can make an order to extend such time beyond 120 days from the date of service of summons. These aspects were underscored by this Court in the case of SCG Contracts (supra) in no uncertain terms.**”

11. Further, this Court in ***FAO(OS) 20/2023*** titled ***‘Vikrant Khanna & Ors. v. Smt. Amita Lamba & Anr.’*** vide judgment dated 17th September, 2024 has also observed that the date from which the limitation for filing the written statement commences is the date of service of summons. The relevant portion of the said decision is set out below:

“[...]

12. The challenge to Rule 4, Chapter VII of DHC Original Side Rules was therefore rejected by the Id. Division Bench, and the said Rule would thus be applicable to all suits before the Delhi High Court



(Original) Side, irrespective of whether they are commercial or non-commercial suits. Further, the time period for filing of written statement as prescribed in the said Rules would be mandatory.

13. Considering the above, observations of the Id. Single Judge in the impugned order, holding the time prescribed under Rule 4, Chapter VII, of DHC Original Side Rules for filing the written statement as directory is no longer good law.

*14. However, a reading of Chapter IV Rule 1 of the DHC Original Side Rules along with the Order VII Rule 14 CPC leaves no doubt that all the documents that the Plaintiff relies upon in support of his claim, and which are in power and possession of the Plaintiff, shall be filed with the plaint. In terms of Order V Rule 2, the Defendant is to be served along with the summons a copy of the plaint and full set of documents which the Plaintiff relies upon in support of his claim. Filing of additional documents could extend the time for filing written statement, depending upon the facts of the case, as held in **ITD Cementation India Ltd. v. Indian Oil Corporation Limited & Anr. (2023:DHC:7311)**. The observation of the Court therein are as under:*

“12. Thus, it is clear that a plaint is required to be accompanied by full set of documents as filed on behalf of the plaintiff for service upon the defendants. In the present case, though the summons were served upon the Appellant/defendant no. 1 on 04th January, 2018, the same cannot be considered to be a complete service. This is for the reason that additional documents were filed by plaintiff firstly on 20th February, 2018 and secondly on



19th April, 2018. Therefore, only when complete set of documents were supplied to the Appellant/defendant no. 1 by the plaintiff on 19th April, 2018 that the service to Appellant/defendant no. 1 was completed.

13. Similarly, in the case of **Sunil Alagh Vs. Shivraj**

Puri and Anr., this Court has held in categorical terms that service in the suit cannot be said to be complete unless complete paper book of the suit is supplied to defendants. Thus, it has been held as follows:

“4. In my opinion the service of the defendant no. 1 in the suit cannot be said to be complete unless complete paper book of the suit is supplied to the defendant no. 1. Surely it cannot be the position in law that even if the defendant has not been supplied with the paper book of the suit yet the period of 120 days will commence for filing of the written statement failing which the right to file written statement shall stand closed.

5. From the order dated 10.04.2007, as reproduced above, it is quite clear that the copy of the plaint and documents was supplied by counsel for the plaintiff to counsel for defendant no. 1 on 10.04.2017. Merely because such a prayer was not made earlier would not mean that defendant no. 1 would have received copy of the paper book prior to 10.04.2017. The period of 120 days will therefore necessarily commence only on 10.4.2017 and not earlier.”



(emphasis supplied)

14. In view of the aforesaid discussion, it is evident that the service can be said to be completed upon Appellant/defendant no. 1 only on 19th April, 2018 when further additional documents filed by plaintiff were served upon it. In view thereof, the written statement filed on behalf of Appellant/defendant no. 1 on 05th May, 2018 was within limitation.”

15. Accordingly, the time for filing written statement shall run from the date of service of summons to the Defendant, along with a copy of the plaint and all documents, and not at a later date...

12. Additionally, in **FAO(OS)102/2023** titled ‘**Delhi Gymkhana Club Limited v. Col Ashish Khanna SM Retd. & Ors.**’ this Court has reiterated that the limitation period of 120 days for filing of the written statements would start from the date of service of summons. The relevant portion of the order dated 27th September, 2024 is set out below:

“[...]

19. Rule 4 of Chapter VII of DHC Original Side Rules being mandatory in nature the 120 days limitation period stipulated under the said Rule would begin from 25th March, 2022 i.e., the date when summons was issued and duly accepted on behalf of the Appellant Club.

20. It is noted that on the date on which the new management is stated to have appeared for the first time before the Court in the concerned suit i.e., 31st May, 2022, the outer period of limitation of 120 days had not been exhausted. Thus, the Appellant Club could have still filed the written statement at that stage, but it chose



not to do so, albeit on the ground that the representation of the Respondent/Plaintiff to the new management was under consideration in terms of the direction passed by the Id. Single vide order dated 31st May, 2022 in the concerned suit. However, as is clear from the said order of the Id. Single Judge, there is no direction regarding exclusion of the time taken for consideration of the said representation from the stipulated time for filing of written statement....”

13. In the present case, the Respondent was served with the summons through WhatsApp on 18th February, 2026 and was, thereafter, stated to have been served with the physical Court summons on 23rd February, 2026.

14. The time for filing of the written statement expired initially within 30 days from 18th February, 2026 and, thereafter, within 120 days.

15. The written statement had been filed on 11th June, 2026, which is well within the overall prescribed period of 120 days.

16. Accordingly, the impugned order, to the extent that it observes that the commencement of the period of limitation for filing of the written statement would be 12th May, 2026, *i.e.*, the date on which the Respondent appeared before the Court for the first time, is clearly incorrect and is not a tenable position in law. Accordingly, the impugned order is set aside to that extent.

17. However, the written statement filed within 120 days is directed to be taken on record. Delay in filing the same is condoned. The suit would now proceed in accordance with law.

18. The matter shall proceed for framing of issues/case management before the Commercial Court.

19. The appeal is disposed of in these terms. Pending applications, if any, are also disposed of.



2026:DHC:6367-DB



20. No further orders are called for in this matter.

PRATHIBA M. SINGH
JUDGE

VIKAS MAHAJAN
JUDGE

AUGUST 5, 2026/dk/sm