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LEGAL WORLD

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Corporate Laws

Landmark Judgement

LMJ 08:08:2026

V.P. SHRIVASTAVA v. INDIAN EXPLOSIVES LTD. & ORS [SC]

Criminal Appeal No. 1843 of 2010 with connected appeal

D. K. Jain & H. L. Dattu, JJ. [Decided on 24/09/2010]

Equivalent citations: (2010) 159 Comp Cas 529

Criminal Procedure Code, 1973 - Section 482- agreement to supply goods- appellants, officers of the seller company, retired from service- seller could not supply goods due to becoming sick- purchaser company instituted criminal proceedings against the appellants- High court refused to quash then proceedings- whether correct - Held, No.

Brief facts:

Both the appellants in these appeals were senior employees of the Fertilizer Corporation of India Limited (hereinafter referred to as "FCIL"). The complainant -- Indian Explosives Limited (hereinafter referred to as "IEL"), respondent No. 1 in these appeals, was engaged in the manufacture and sale of industrial explosives. Ammonium nitrate is a major raw material for the manufacture of explosives, and the same was procured by IEL from FCIL under a tripartite agreement. However, due to the breakdown of a synchronized gas compressor and other financial difficulties, FCIL stopped supplies of ammonium nitrate to IEL.

In 2002, the Government of India directed that FCIL shall implement Voluntary Suppression Scheme in all its units, and all the employees shall be discharged of their employment. The appellants herein availed of the Voluntary Suppression Scheme and were discharged from the service of FCIL.

In 2003 IEL instituted a criminal complaint in the court of Chief Metropolitan Magistrate, Kolkata under Sections 406, 420 and 120B of the IPC read with Sections 540 and 542 of the Companies Act, 1956 against both the appellants and Mr. A.K. Mukherjee. The Metropolitan Magistrate issued summons against the appellants and Mr. A.K. Mukherjee. Aggrieved by the order of the Magistrate taking cognizance of the complaint, appellants together with Mr. A.K. Mukherjee approached the High Court under Section 482 of the Code for quashing of the order summoning them to stand trial, which dismissed the petition. Hence the present appeals.

Decision: Allowed.

Reason:

In the instant case, it has been alleged by IEL that at the time of entering into the tripartite agreement, the appellants, by having suppressed the fact that FCIL was likely to be declared a sick company and was, in fact, declared to be so by the BIFR, had dishonest intention to induce IEL to enter into the said agreement, which amounted to cheating. A bare reading of the complaint would show that there is not even a whisper let alone a specific averment that the appellants had dishonestly "induced" IEL to enter into the said agreement/arrangement. On the contrary, the complaint clearly reveals that IEL was fully conscious of the precarious financial health of FCIL at the time they had decided to enter into contract with FCIL and BCCL to ensure a regular supply of their basic raw material from FCIL so that their production of explosives did not suffer.

It is manifest from the afore-extracted paragraphs of the complaint that the basis of the complaint is that by deliberately suppressing the fact that FCIL had already been referred to the BIFR after the erosion of its net worth and was likely to be declared a "sick company", the appellants induced IEL to pay Rs.4,20,41,622/- to BCCL and in return did not supply ammonium nitrate to them. In our view, a mere mention of the words "defraud" and "cheat" in para 12 of the complaint, in the setting that these have been used, is not sufficient to infer that the appellants had dishonest intention right at the beginning when, demonstrably, after due deliberations a tripartite agreement was signed, which, under the given circumstances at that juncture, was considered to be in the interest of all the three parties to the agreement.

In our view, the averment strikes at the root of the allegation that at the time of entering into the agreement sometime in the year 2001, the appellants had fraudulent intention to somehow induce IEL to enter into the said agreement and part with a huge sum of money. It bears repetition that on their own showing IEL was fully aware of the financial health of FCIL at the time the said contract was entered into, as also the reason why FCIL was unable to continue the production of ammonium nitrate. It needs little emphasis that in order to constitute an offence of "cheating", the intention to deceive should be in existence at the time when the alleged inducement was made. In the instant case, such an intention cannot be inferred from the aforenoted allegations in the complaint and averments in the plaint. In our opinion, therefore, even if the allegations made in the complaint are taken to be correct on their face value, may amount to breach of terms of contract by FCIL but do not constitute an offence of "cheating", punishable under Section 420 of the IPC.

We may now consider whether the allegations in the complaint make out a case of criminal breach of trust, as defined in Section 405 of the IPC.

In the instant case, there is nothing in the complaint which may even suggest remotely that the IEL had entrusted any property to the appellants or that the appellants had dominion over any of the properties of the IEL, which they dishonestly converted to their own use so as to satisfy the ingredients of Section 405 of the IPC, punishable under Section 406 IPC.

Having come to the conclusion that no prima facie case had been made out against the appellants in respect of the alleged offences under Sections 420 and 406 IPC, the question of alleged conspiracy between the appellants does not arise. Nevertheless, in order to bring home the charge of conspiracy within the ambit of Section 120B of the IPC, it is necessary to establish that there was an agreement between the appellants for doing an unlawful act. The complaint lacks any such substance.

For the aforegoing reasons, the appeals are allowed; the impugned order is set aside and the order of the Magistrate taking cognizance in Complaint Case No. 2560 of 2003 is quashed.

LW 55:08:2026

SHREE DHANVANTARI PHARMACEUTICALS v. KONKAN AYUR PHARMA PRIVATE LIMITED & ORS [NCLAT]

Company Appeal (AT) (Ins) No. 988 of 2024

N. Seshasayee & Arun Baroka. [Decided on 17/07/2026]

Insolvency and Bankruptcy Code, 2016 – Section 7 – financial debt- last transaction took place in 2019- CIRP petition- dismissed for want of clarity in date of default- whether correct – Held, Yes.

Brief facts:

The Adjudicating Authority dismissed the Section 7 application filed by the Appellant holding that there is lack of clarity regarding the date of default besides absence of material explaining the nature of the transaction, and that the petition suffered from want of proper authority and it arose out of disputes amongst the partners of the Appellant firm.

Decision: **Dismissed.**

Reason:

The contention of the corporate debtor is that the money which the appellant has claimed to have advanced as a loan is not a debt, and that it is only a financial assistance. In other words, the contention of the corporate debtor appears to be that what was paid to it by the appellant is not a debt. The second defence taken was on the discrepancy in the date of default as shown in Part IV of the petition and the uncertainty it has created as the date of default was changed from 31.03.2019 to 30.05.2022 by the appellant vide affidavit dated 13.07.2023.

The corporate debtor having admitted the receipt of money from the appellant, it may not matter that the one who has signed the balance sheet of the debtor is also a partner of the lender firm, the legal relationship between the parties can still be distinct. What could now be derived from this is that the money which the corporate debtor has received from the appellant is intended to be repaid. If this is taken alongside the classification of appellant as sundry creditor in the balance sheet of the corporate debtor, lends credence to the fact that the amount paid by the appellant to the corporate debtor constitutes only a debt. The fact that there is no formal agreement between the parties is of no consequence, for a loan transaction does not require a formal agreement.

The second aspect relates to payment of interest. The ledger account which the appellant has produced does not show any interest component within the amount paid by the corporate debtor. Here two facts are required to be noted: (a) Payment of interest is not sine qua non for constituting a debt vide ratio in *M/s Orator Marketing Pvt. Ltd v M/s Samtex Desinz Pvt. Ltd [(2021) ibclaw.in 68 SC*]; and (b) In Part IV, the principal account shown to be due from the corporate debtor itself is shown to be ₹2,26,45,568/- which very obviously exceeds the threshold limit of ₹1.0 crore. Therefore, even if the interest component is excluded, Sec.7 petition can still be sustained.

Date of default may not have sanctity except in computing the period of limitation. As stated earlier, the nearest ascertainable date from which the default has commenced was from 31.03.2019, the last date of transaction between the parties, which to repeat even the appellant relies on in part IV of his petition. If that is so, then the terminus a quo for computing limitation would commence from 31.03.2022, and the petition under Section 7 should have been filed on or before that date. However, the appellant has issued the notice of demand, dated 14.05.2022 on the corporate debtor, mailed it on 17.05.2022 (gathered from the affidavit of the appellant, dated 13.07.2023), and laid its petition under Section 7 in August 2022. Very evidently, the debt has become time barred and necessarily Section 7 petition cannot be maintained. Now, if the affidavit dated 13.07.2023 is perused, while it gives the date of default as 30.05.2022, it does not explain, how? It appears that the date 30.05.2022 is artificially given, and we do not find any support for it from the materials available before us.

We, therefore, concur with the finding of the Adjudicating Authority on the uncertainty of date of default, and have also demonstrated how it impacts the point on limitation. Necessarily we arrive at the same conclusion which the Adjudicating Authority has arrived, and accordingly the appeal will stand dismissed.

LW 56:08:2026

SUBIR MUKHERJEE v. RAM RATAN MODI [NCLAT]

Company Appeal (AT) (Ins) No. 72 of 2025

N. Seshasayee, Arun Baroka, Indevar Pandey. [Decided on 17/07/2026]

Insolvency and Bankruptcy Code, 2016 – Section 5 (13) – costs of CIRP- gratuity and encashable leaves- whether form part of the costs of CIRP - Held, No.

Brief facts:

The appellant herein was the former director of the corporate debtor, who challenged an Order, dismissing his application, which he had taken out for treating his claim for payment of gratuity and leave encashment dues as part of CIRP costs. The Adjudicating Authority, however, has held that he is entitled to be paid only in terms of the Resolution Plan.

Decision: Dismissed.

Reason:

The issue in controversy is short and straight forward: whether the gratuity and the encashable leave of an employee should be part of CIRP costs.

It is not in dispute that the appellant has been an employee of the corporate debtor before and after the commencement of CIRP, that he has superannuated during the CIRP, and that the resolution professional did not reject the amount claimed as gratuity payable to the appellant. It is about when it has to be paid. Unfortunately, the corporate debtor did not maintain any Gratuity fund to support its employees for the appellant to feel more secured. And, the strategy of the appellant makes evident his underlying anxiety: If his claim of gratuity is made of CIRP cost he will not only be entitled to the actuals but also receive the same in priority.

Section 5(13) defines insolvency resolution process costs. An analysis of the definition informs that the legislature has opted for a narrower definition when it used the word 'means', which implies nothing which is not stated to mean an insolvency resolution process costs within the definition can be read into it. Secondly, except in (b) which deals with remuneration payable to the resolution professional, those in (a), (c) and (d) are expenses actually incurred by the resolution professional. Therefore, IRP cost essentially means those costs which are actually incurred by the resolution professional during the insolvency resolution process, but slated for deferred payment to be paid first in the order of priority when payment happens as per Section 53 formula. Very obviously, the obligation to pay gratuity is not an expense which the resolution professional has actually incurred. Indeed, it accrues to an employee as an aspect of his terminal benefit and hence cannot even be equated to the salary payable to an employee during an insolvency resolution process.

To conclude, we find that the appellant's claim is misconceived and cannot be sustained in law. Accordingly, the appeal is dismissed as devoid of merits.

Competition Laws

LW 57:08:2026

HP INDIA SALES PRIVATE LIMITED & ORS [CCI]

Suo Moto Case No. 07 of 2020

Ravneet Kaur, Anil Agrawal, Sweta Kakkad & Deepak Anurag. [Decided on 13/07/2026]

Competition Act, 2002 - Section 3&4- cartelisation- supply of personal computers and devices- bid rigging through cartelisation- investigation by DG- cease and decease order as well as penalty imposed by CCI

Brief facts:

The present case pertains to cartelisation amongst HP India Sales Private Limited and its 10 resellers in the sale and supply of personal system products laptops, desktops, workstations, thin clients, notebooks, mobility devices, retail Point of Sale systems etc. as well as related software and accessories such as monitors, keyboards, mouse and docks ('Personal Systems Products'), to the commercial and retail customers in India.

Decision: Cease and desist order passed. Penalty also imposed.

Reason:

Having dealt with the preliminary objections above, the Commission proceeds to examine the matter on merits. The Commission has perused the Information, material available on record, the consolidated Investigation Report, the replies/suggestions/objections to the Investigation Report filed by the OPs and their respective individuals as well as the oral and written submissions of the parties. The Commission proceeds to examine the role of each OP and its individuals in the aforesaid arrangement:

It is noted that, as per the prima facie order the cartelisation existed. The DG has examined the tenders (above INR 1 crore) post introduction of GEM i.e. 2017 during which the emails were exchanged. As per the DG, the impugned conduct continued till at least June, 2020. The Commission notes that in order to optimize time and resources of investigation and for administrative reasons, the scope of investigation was narrowed to GeM tenders of value exceeding INR 1 crore in Delhi region. The oral testimonies of the key personnels of the OP resellers, including officials of HP India, establishes that HP India used to resellers, HP India ensured that such resellers are able to retain their respective MVC accounts. Thus, HP India seems to have indulged in customer allocation when there was no e-tendering, and ensured that such allocation continues even after introduction of e-tendering at GEM portal. However, considering the scope of investigation, the Commission is inclined to consider the period from 2017 to 2020 as the relevant period of consideration for the purpose of imposition of penalty.

In view of the foregoing, the Commission holds the conduct of OP-1, OP-2, OP-4, OP-6, OP-8 and OP-11 in contravention of the provisions of Section 3(3) read with Section 3(1) of the Act. On the basis of investigation and examination of the matter and considering all other material available on record, the Commission finds that OP-1, OP-2, OP-4, OP-6, OP-8 and OP-11 to have acted in contravention of provisions of Section

3(3) of the Act. Accordingly, the Commission, in terms of Section 27(a) of the Act, directs these contravening OPs and their respective officials who have been found liable in terms of provisions of Section 48 of the Act, to cease and desist in future from indulging in practices found in the present order to be in contravention of the provisions of the Act, as detailed in the earlier part of the present order.

Considering the mitigating factors such as being an MSME, limited role, acting upon directions of OP-1, cooperation during investigation, first time contravention, nature and gravity of contravention, the Commission decides to impose penalty @ 2% upon OP-4, OP- 6 including its individuals, OP-8 and OP-11. Consequently, the penalty amount imposed and payable by OP-4, OP-6 including its individual, OP-8, OP-11 and respective individual. Accordingly, the Commission directs the aforementioned OPs and their individuals to deposit the penalty amount within sixty (60) days of the receipt of this order.

LW 58:08:2026

RAJEEV BAKSHI v. NISSAN MOTOR INDIA PVT. LTD. [CCI]

Case No. 09 of 2026

Ravneet Kaur, Anil Agrawal, Sweta Kakkad & Deepak Anurag. [Decided on 07/07/2026]

Competition Act, 2002- Sections 3 and 4- termination of dealership agreement – whether fall foul of sections 3 and 4 - Held, No.

Brief facts:

The informant, partner of a partnership firm, was an authorised dealer of the OP for the sale and servicing of Nissan vehicles in the territory of South Delhi and Faridabad.

The Informant has stated that its relationship with the OP is governed under a Dealership Agreement, executed on a standard-form basis without any scope for negotiation, and there was imbalance of bargaining power in favour of the OP. The Informant has alleged that despite heavy investments made by him, the OP has, in a wholly arbitrary and unilateral manner, issued a termination notice invoking Clause 16 of the Dealership Agreement, without issuing any show cause notice, assigning any reasons and affording any opportunity of hearing, thereby seeking to terminate the dealership mid-term. Further he alleged that the agreement contained restrictive clauses and that the OP has abused its dominant position.

Decision: **Dismissed.**

Reason:

The Commission notes that the OP is conducting its business by way of Dealership Agreement which appears to be a standardised document. The Commission has had the opportunity to deal with similar allegations in earlier cases before it. In Case No. 36 and 82 of 2014; Fx Enterprise Solutions India Pvt. Ltd. v. Hyundai Motor India Ltd. The Commission finds that in the present matter, the Informant has not furnished any evidence to demonstrate that the OP restricted its dealers from acquiring dealerships of competing manufacturers. Also, it is observed from the information available in public domain that the Informant has acquired another car dealership with VinFast, a Vietnamese Car manufacturer while its dealership with OP subsisted.

In view of the above, the Commission does not find any substance in the Informant's allegation of restricting it to have exclusive dealership under Section 3(4) of the Act.

The Commission has considered the allegation of resale price maintenance by the Informant. Upon perusal of the Dealership Agreement, the Commission observes that the dealers are required not to sell above the Maximum Recommended Retail Price ('MRRP'), but there is no condition in relation to the minimum price and discount that can be given by the Informant. Accordingly, the allegation relating to resale price maintenance does not hold good.

The Commission finds that the allegation of the Informant under Section 3(4)(d) of the Act i.e., refusal to deal, is also not tenable as termination of dealership has been done as per Clause 16 of the Dealership Agreement. Clause 16 allows both the parties to the Dealership Agreement to terminate the agreement after giving a notice of 90 days at any time during the subsistence of the said agreement. Notably, there is no requirement to provide any reasons for termination by both the parties. The cancellation of dealership is a standard commercial dispute. The Commission is of the view that in common parlance the freedom of contract and the selection of trading partners is a normal business practice rather than an anticompetitive practice.

Further, when tested on factors mentioned under Section 19(4) of the Act, the Commission observes that, in the present matter, the market share of the OP is miniscule. It is further noted that the Informant has not been restrained from acquiring another dealership with Vinfast. There does not appear to be any dependence on the OP of either the Informant or customers at large who are free to exercise options in the market with other car manufacturers. Therefore, prima facie, the OP does not appear to be dominant in the relevant market. In the absence of dominance, no further analysis on the aspect of abuse of dominance is required.

In view of the Information provided and analysis carried out in preceding paragraphs, the Commission is of the opinion that no prima facie case of contravention of Sections 3(4) and 4 of the Act is made out against the OP. Accordingly, the Information is directed to be closed forthwith under Section 26(2) of the Act. Consequently, no case for grant of relief(s) as sought under Section 33 of the Act arises and the same is also rejected.

Industrial & Labour Laws

LW 59:08:2026

AMARJIT SINGH v. AIIMS & ANR [DEL]

W.P.(C) 18004/2004 with connected writ petition

Shail Jain, J. [Decided on 29/07/2026]

Industrial Disputes Act, 1947- termination of services- working for not less than 240 days- employment records were in the custody of the respondent- respondent failed to produce employment records of the workmen- Tribunal dismissed the claim – whether correct - Held, No.

Brief facts:

These two connected Writ Petitions assailed two separate Awards, both dated 13.02.2004, passed by the Labor Court. No. IV, Delhi (hereinafter referred to as “the Tribunal”) in Industrial Since both Writ Petitions arise out of substantially identical facts, involve common questions of fact and law, and challenge Awards passed by the same Tribunal against the same Management on the same date, they were taken up together for hearing and are being decided by this common judgment. The Labour court dismissed the petitions of the Petitioners on the ground that they had failed to establish completion of 240 days of continuous service.

Decision: Allowed.

Reason:

The issue in the present petitions thus narrows to a single question, namely, whether the Petitioners established completion of 240 days of continuous service within the meaning of Section 25-B of the Industrial Disputes Act, 1947. The correctness of the impugned Awards must, therefore, be examined solely with reference to the Labor Court’s appreciation of the evidence and its application of the settled legal principles governing proof of that statutory requirement.

The enquiry before this Court is not whether the Petitioners produced documentary evidence which admittedly remained in the exclusive custody of the Respondent, but whether the evidentiary record, viewed as a whole, justified the Labor Court’s conclusion on the issue of continuous service.

The Petitioners did not rest their claim upon bare pleadings. In their respective Statements of Claim, they specifically pleaded the nature of their engagement, the period during which they continuously worked under the Respondent, the completion of more than 240 days of continuous service, and the circumstances in which their services came to be terminated. Each Petitioner thereafter entered the witness box, filed an affidavit by way of evidence affirming those facts on oath, and subjected himself to cross-examination. During cross-examination, suggestions were put on behalf of the Respondent that the Petitioners were engaged only as and when work was available, that the work assigned to them was of a casual nature, and that they had not worked continuously during their tenure. The Petitioners categorically denied those suggestions. No material contradiction or admission was brought out in cross-examination capable of discrediting their testimony or undermining the factual foundation of their claim. The Petitioners further identified the attendance registers, muster rolls, wage registers and other employment records maintained by the Respondent as the primary records bearing upon the exact period of their engagement and, by serving notices under Order XII Rule 8 of the Code of Civil Procedure, 1908, called upon the Respondent to produce those records before the Labor Court. The receipt of the said notices was never disputed. The records remained exclusively within the custody and control of the Respondent and were beyond the possession of the Petitioners. The Petitioners thus laid the foundational factual basis of their respective claims in the manner contemplated by the principles explained in R.M. Yellatti (supra).

The evidentiary onus thereafter shifted to the Respondent to rebut the Petitioners’ prima facie case by producing the best available evidence in its possession. Such shifting of evidentiary onus did not relieve the Petitioners of the legal burden of establishing completion of 240 days of continuous service, which remained upon them throughout. It merely required the Respondent, being the admitted custodian of the relevant employment records, to place before the Labor Court those records or other cogent evidence capable of rebutting the Petitioners’ case and substantiating its own plea regarding the actual period of service and the alleged breaks therein.

The impugned Awards, however, do not disclose an appreciation of the evidence consistent with the aforesaid principles. Decisive weight was attached to the absence of documentary evidence produced by the Petitioners without examining the evidentiary consequences flowing from the Respondent’s admitted custody of the primary employment records, the specific notices requiring their production, the Respondent’s unexplained failure to produce those records, and the inability of its own witnesses to substantiate the factual basis of the defense. The error was compounded by the finding that the employment records had been destroyed, although no such plea was raised, no witness deposed to their destruction and no contemporaneous record was produced in support thereof. On the contrary, the Respondent’s own witnesses admitted that their affidavits had been prepared on the basis of those very records while simultaneously acknowledging that the records themselves had not been produced before the Labor Court. The finding regarding destruction of the records is, therefore, unsupported by either the pleadings or the evidence on record.

On such an examination, this Court is unable to sustain the finding returned by the Labor Court. The Respondent, despite being the admitted custodian of the contemporaneous employment records, neither produced those records nor led any cogent evidence substantiating its plea regarding the alleged breaks in service. Its witnesses were themselves unable to disclose the factual basis of that plea. In these circumstances, the Respondent failed to rebut the Petitioners' case, and its unexplained withholding of the best evidence available in its possession assumes due evidentiary significance while appreciating the record as a whole.

Accordingly, the impugned Awards passed by the learned Presiding Officer are set aside. In substitution thereof, the Respondent is directed to pay each Petitioner a lump-sum compensation of ₹3,00,000/- each within eight weeks from the date of this judgment, failing which the workmen shall be entitled to interest at the rate of 9% per annum on the abovementioned amount with effect from the date of default.

The writ petitions are allowed in the aforesaid terms. Pending applications, if any, also stand disposed of. There shall be no order as to costs.

LW 60:08:2026

PRABHODHAN PRAKASHAN PVT. LTD. v. DISHA SHANTARAM SALVI & ANR [BOM]

Writ Petition No. 13075 of 2025

Sandeep v. Marne, J. [Decided on 28/07/2026]

Industrial Disputes Act, 1947- worker employed as accounts officer- terminated without domestic enquiry- labour court held the worker to be worker and the termination as illegal- whether correct - Held, Yes.

Brief facts:

By this Petition, the Petitioner-Employer has challenged the Award passed by the learned Labour Court, directing the Petitioner to reinstate Respondent No. 1 with continuity of service and full backwages from the date of termination till her reinstatement. Before the labour court the primary contention of the Petitioner was that being a accounts officer she was not a worker. However, the Labour Court held the respondent to be a worker.

Decision: **Allowed.**

Reason:

The main defence of Petitioner before the Industrial Court was that Respondent No. 1 was not a workman within the meaning of Section 2(s) of the ID Act. Since no enquiry is conducted before terminating the services of Respondent No.1, answer to issue about status of Respondent No. 1 became the key for deciding the Reference by the Labour Court. Labour Court has answered issue No.1 relating to status of Respondent No. 1 as a workman in the affirmative.

By now, it is well-settled position that mere nomenclature of the post does not decide status of a person as a workman. The crucial test to be applied is about the nature of work performed by the concerned employee. According to the Petitioner-Employer, Respondent No. 1 had certain workers employed under her whose work she used to supervise. This aspect is admitted by Respondent No. 1 in her cross-examination.

Petitioner has relied upon leave applications submitted by the concerned staff working under the Respondent No. 1. It appears that in the leave application form, Respondent No. 1 signed as Head of the Department. However, though signature of Respondent No. 1 is reflected on various leave applications, it is difficult to draw a definitive conclusion that she had authority to sanction leaves. This is clear from the fact that the leave application is in two parts. The first part is to be filled in and signed by the applicant with Respondent No. 1 endorsing her signature as Head of Department. However, second part of the application contained space for decision of the leave application. The Labour Court has correctly appreciated this position and has held that there was no evidence of Respondent No. 1 sanctioning or rejecting the leave applications and that Respondent No. 1 was not vested powers in respect of sanction of leave.

The admission given by the Respondent No. 1 in her cross-examination that without her approval the four employees were not getting conveyance expenses cannot be read to mean as if Respondent No. 1 had independent power to sanction payment of conveyance expenses.

I am in broad agreement with findings recorded by the Labour Court with regard to absence of authority in Respondent No. 1 to sanction leave or to sanction payment of conveyance allowance.

Though an admission appears to have been given by Respondent No. 1 that without her approval, the four employees were not receiving conveyance expenses, there also appears to be a direct admission by Petitioner's witness that Respondent No. 1 used to work as per his instructions. Thus, far from proving that Respondent No. 1 had independent authority to take decisions and to bind the Petitioner-Employer with her decisions, an express admission was given by Petitioner's witness that Respondent No. 1 used to work as per his instructions. It therefore cannot be held that Respondent No. 1 was engaged in managerial, administrative or supervisory capacity. Though she carried designation of Accounts Officer and Accounts Officer - Recovery, the predominant nature of her duties was clerical.

Considering the above position, I am not inclined to disturb the finding recorded by the Labour Court that Respondent No. 1 is a workman within the meaning of Section 2(s) of the ID Act.

Once the status of Respondent No. 1 as a workman is upheld, the termination would automatically be rendered illegal. Since termination is effected without conducting enquiry and without following provisions of Section 25F of the ID Act, the same is rendered illegal. The Petitioner-Employer did not even pay retrenchment compensation or notice wages to Respondent No. 1. It also appears that the termination is stigmatic in nature. Therefore, termination of Respondent No. 1 is rightly held to be illegal by the Labour Court.

Coming to the nature of relief that can be granted to Respondent No. 1, it is seen that she attained the age of superannuation shortly after passing of the impugned judgment and order dated 7 April 2025 by the Labour Court. The termination is rendered illegal mainly due to technicalities of not following the prescribed procedure. While awarding the compensation it would be necessary to bear in mind the fact that the Petitioner is in the print publication business.

Considering the above circumstances, in my view, Respondent No. 1 cannot be awarded full backwages. Instead, it would be appropriate to award lumpsum compensation to Respondent No. 1 in lieu of reinstatement and backwages. Considering the facts and circumstances of the present case, the lumpsum compensation is fixed at Rs.6,00,000/-.

General Laws

LW 61:08:2026

WU JYUN LIN v. FOREIGNERS REGIONAL REGISTRATION OFFICE & ORS [BOM]

Writ Petition (Lodging) No. 8223 of 2026

Ravindra V. Ghuge & Gautam A. Ankhad, JJ. [Decided on 28/07/2026]

Immigration and Foreigners Act, 2025- FERRO-registration of foreign workers- petitioner on employment visa was pursuing various education courses- got admission in govt college for law course- went back to Taiwan- obtained fresh student visa to pursue law course- returned to India- respondent passed exit order and penalty- whether correct - Held, No.

Brief facts:

The Petitioner was granted Employment Visa and was in employment till 1^{st} July, 2025 and simultaneously pursued online academic programmes. In 2024 the Petitioner got admission to the Government Law College, Mumbai in the three years LL.B. programme. He resigned from the job and applied afresh for a Student Visa before the Indian Embassy in Taiwan. Upon due verification, the competent authorities granted him a Student Visa valid till 13^{th} August, 2028. The petitioner applied to Respondent No. 1 for issuance of a Registration Certificate on the portal maintained by Respondent No. 1 along with the requisite documents. As no decision was taken on the Application, the Petitioner addressed several emails requesting Respondent No. 1 to process his Application. The Respondent informed him that he was liable to pay a penalty of Rs. 50,000/- and that his request for a Registration Certificate had been closed. No reasons were assigned for the closure of the Petitioner's request for issuance of Registration Certificate. The Petitioner disputed the levy of penalty, and Respondent No. 1 issued the impugned Exit Permit directing the Petitioner to leave India within the period stipulated therein. Aggrieved thereby, the Petitioner has instituted the present proceedings.

Decision: Allowed.

Reason:

We are unable to accept the Respondent's contention that the Exit Permit was justified as the Petitioner violated the conditions of his earlier Employment Visa by pursuing educational courses while employed in India. The Employment Visa stipulated only two conditions, (i) that it was not valid for prohibited/restricted/cantonment areas; and (ii) that FRRO registration was required within fourteen days of arrival in India.

The Petitioner was in employment till 1^{st} July, 2025 and simultaneously pursued online academic programmes. There is no prohibition in the conditions of Employment Visa from doing so. After resigning from employment and whilst studying at the Government Law College, the Petitioner left India and returned to Taiwan. The Petitioner applied afresh for a Student Visa before the Indian Embassy in Taiwan. Upon due verification, the competent authorities granted him a Student Visa valid till 13^{th} August, 2028.

The reliance placed by the Respondents on Section 7(2)(f) of the Immigration and Foreigners Act, 2025 is misplaced. Section 6 of the Act provides for registration of foreigners upon their arrival in India with Respondent No. 1. Section 7 of the Act provides for powers to issue orders, directions or instructions for prohibiting, regulating or restricting the entry of foreigners into India or their departure. Section 7(2)(f) obligates a foreign national to comply with conditions of the Visa. The material on record does not establish any breach of the express conditions contained in the Employment Visa. The Petitioner is not involved in any criminal investigations nor are any proceedings filed against him by any authorities. The Indian Embassy at Taiwan is presumed to be aware that the Petitioner had already begun studying at the Government Law College, under the Employment Visa.

Nevertheless it granted the Student Visa to the Petitioner. The Student Visa now issued specifically prohibits employment or business activities. It is not the Respondents' case that after entering India on the Student Visa the Petitioner has engaged in any employment or otherwise breached any condition of the Student Visa. Therefore, if the Petitioner is directed to leave India, it would seriously disrupt his education.

The Registration of Foreigners Rules, 1992 (now superseded) require registration within fourteen days of arrival. The Petitioner arrived in India on 20^{th} August 2025 and submitted his online application on 1^{st} September, 2025, which is within the prescribed period. There is no delay on the Petitioner's part and hence the question of imposing penalty of Rs. 50,000/- does not arise. The Petitioner's request is closed without assigning any reasons and he was called upon to pay a penalty again without assigning any reasons. There is no response to any of the Petitioner's representations. Thereafter, the impugned Exit Permit came to be issued without even considering the Petitioner's explanation. Such actions, in the present peculiar facts, are arbitrary and cannot be sustained.

The decision of the learned Single Judge of the Delhi High Court in *Kasha Elizabeth Vande* (supra) does not advance the Respondents' case. In that case, the Petitioner therein was blacklisted for visa violation for being involved in NGO activities in Puducherry while holding a business visa. The Petitioner had made incorrect statements in his visa application including the name of her employer and had over-stayed in India beyond the permissible limit in violation of the visa conditions. The facts are distinguishable. In the present case, the Petitioner resigned from employment, departed from India, obtained a fresh Student Visa through the prescribed procedure and thereafter entered India for pursuing his studies. The Indian Embassy which had earlier granted him an employment visa, had itself verified his application for a student's visa, which was granted and on the basis of which, he lawfully entered India. The ratio of the said decision is inapplicable in the present facts. For all the aforesaid reasons, the Petition is allowed.

Respondent No. 1 shall pass appropriate orders in accordance with law within a period of six weeks from the date of this order after examining the relevant documents. Pending such consideration, the Petitioner shall be permitted to remain in India and continue his studies in terms of the Student Visa issued to him. It is clarified that the Petitioner shall strictly abide by all the conditions of the Student Visa and shall not undertake any other activity or employment or business during its validity.

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TI CLEAN MOBILITY PVT. LTD. v. SENATLA INNOVATIVE EV COMPONENTS PVT. LTD. [MAD]

Arb O.P. (Com Div) No. 83 of 2026

K. Kumaresh Babu, J. [Decided on 31/07/ 2026]

Arbitration and Conciliation Act, 1996- Section 11- appointment of arbitrator- respondent MSME entity- whether arbitrator could be appointed - Held, Yes.

Brief facts:

The Arbitration Original Petition had been filed to appoint an independent and impartial Sole Arbitrator to adjudicate the disputes between the petitioner and the respondent arising out of the basic purchase agreement and related purchase orders. The Respondent resisted that it is a MSMED registered entity and the dispute resolution provisions of the MSMED Act would prevail over the provisions of the A& C Act.

Decision: Allowed.

Reason:

A conjoint reading of Section 18 read with Section 17 would indicate that a supplier for the recovery of amount under Section 17 could approach the counsel under Section 18(1) and of on the reference under sub-Section (1), which relates to Section 17 recovery, a conciliation process should be initiated and if there is a failure of conciliation, process of arbitration should be invoked and only in that regard, the provisions of Arbitration and Conciliation Act would be made applicable.

The said provision therefore cannot be made applicable to a claim made against a supplier who is registered under the either for a failure to supply or for a defective supply that had been made by the supplier. The MSMED Act restricts itself to the scope of recovery of unpaid amount that is liable to be paid by the buyer under Section 15 together with interest under Section 16 alone and not otherwise. The restrictions imposed under Section 18 deals with only the claim under Section 17, which would itself show that the supplier cannot also invoke the provisions of the Section 18 for any relief that falls outside the scope of Section 17 of the Act.

As noted by the Hon'ble Apex Court, the object of Section 18 is to only recover the dues payable by the buyer to the supplier for the goods supplied and services rendered therein to keep the micro and small industries running and in that regard, any other disputes outside Section 17 of the Act cannot be resolved by the facilitator of the council. If there has been any dispute falling outside the realm of Section 17 read with Section 18 of the MSMED Act the same cannot be a subject matter of Conciliation and Arbitration under sub-section (2) & (3) of the Section 18 of the Act. In that regard, an independent Arbitration Agreement which deals with the other rights and liabilities of the party cannot be overridden by the provisions of the MSMED Act. This had not been the subject matter of the issue before the Hon'ble Apex Court in the judgment relied upon by the learned counsel appearing for the respondent.

Applying the aforesaid analogy to the present facts of the case, it could be seen that the petitioner/applicant had initially approached this Court for interim relief under Section 9 of the Arbitration Act and had issued a notice under Section 21 on 28.11.2025. The initiation of Section 9 was also well within the knowledge of the respondent as evidenced from the typed set of papers where it had annexed the letter of Garnishee, dated 14.11.2025 informing of the prohibitory order passed by this Court. The petition filed under sub-section (1) of Section 18 which had been placed before this Court would indicate that there had been supplies made by the respondent to the petitioner to the tune of Rs.2,16,80,730.17/- which remained unpaid. The claim made by the petitioner in the Section 21 notice issued to the respondent as also the petition and the applications filed under Section 11 and Section 9 would indicate that the claims have been made to the tune of Rs.5,08,15,264/- after giving due credit to a sum of Rs.2,00,83,628/- payable by the petitioner to the respondent of a total debit note issued to the tune of Rs.7,08,98,892/-.

Viewing the facts of the case in that regard and the claim of the respondent before the MSME counsel, there is no dispute with regard to a sum of Rs.2,00,83,628/- which the petitioner has admitted to be paid to the respondent as reflected in its claim before the MSME Council.

As analysed above, any dispute for recovery of damages for the defective supply cannot be made by the petitioner before the MSME Council and as noted above, the MSME Council, for conciliation and arbitration can only deal with the disputes falling within Section 17 alone and not otherwise.

For the aforesaid reasons, this Court is of the view that an Arbitrator could be appointed to resolve the dispute between the parties arising out of the agreement, independently of the conciliation proceedings initiated by the respondent under the MSMED Act.