

HIGH COURT OF ANDHRA PRADESH

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**CIVIL REVISION PETITIONS Nos. 1847 of 2024, 1172 of 2022 &
1685, 1686, 1688, 1689 of 2024**

Between:
3F Industries Limited and others

.....PETITIONERS

AND

Transparent Technologies Solutions
Private Limited & others

.....RESPONDENTS

DATE OF JUDGMENT RESERVED : 12.02.2026
DATE OF JUDGMENT PRONOUNCED : 18.05.2026
DATE OF JUDGMENT UPLOADED : 18.05.2026

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

&

THE HON'BLE SRI JUSTICE BATTU DEVANAND

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No
3. Whether Your Lordships wish to see the fair copy of the Judgment? Yes/No

RAVI NATH TILHARI, J

*** THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**

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Between:

3F Industries Limited and others

.....PETITIONERS

AND

Transparent Technologies Solutions

Private Limited & others

.....RESPONDENTS

! Counsel for the Petitioners : Sri Venkat Challa
Sri G.V.S.Kishore Kumar

Counsel for the Respondents : Sri V. Yatendra Kumar
Sri Somu Krishna Murthy

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> Head Note:

? Cases Referred:

1. CRP.No.1847 of 2024 dated 23.08.2024
2. CRP.No.2183 of 2022
3. CRP.No.740 of 2014
4. CRP.No.1749 of 2023
5. (1982) 1 SCC 271
6. (1998) 1 SCC 318
7. (2023) 1 SCC 549
8. (2008) 7 SCC 680
9. (2016) 1 SCC 780
10. (1974) 4 SCC 440
11. (2000) 1 SCC 426
12. (1999) 5 SCC 138
13. (2012) 12 SCC 787
14. 2001 SCC OnLine AP 442
15. AIR 1963 SC 1618
16. (1980) 1 SCC 258

17. (1972) 3 SCC 156
18. AIR 1963 SC 1088
19. (2021) 2 SCC 392
20. (1998) 1 SCC 318
21. (1987) 3 SCC 705
22. (2001) 4 SCC 9
23. (2011) 8 SCC 737
24. (2009) 8 SCC 431
25. (2023) 1 SCC 549
26. (2025) 2 SCC 49
27. 2024 SCC OnLine SC 2494
28. (2022) 5 SCC 1
29. AIR 1952 SC 369
30. CRP.1932 of 2025 THC on 22.09.2025
31. WP(C).3941 of 2019 Jharkhand HC dated 24.06.2020
32. CRP.2183 of 2022 APHC 25.09.2023

THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

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CIVIL REVISION PETITIONS Nos. 1847 of 2024, 1172 of 2022 &

1685, 1686, 1688, 1689 of 2024

JUDGMENT: (per Hon'ble Sri Justice Ravi Nath Tilhari)

(Partly, concurring and supplementing on question 'A' and respectfully differing on questions 'B' & 'C')

This reference has been made to this Larger Bench in **3F Industries Limited v. Transparent Technologies Solutions Private Limited¹** by the Division Bench vide order dated 23.08.2024 on the following questions under the provisions of the Commercial Courts Act, 2015 (Act No.4 of 2016) as amended vide the Commercial Courts, Commercial Division and Commercial Appellate Division of High Court (Amendment) Act, 2018 (Act No.28 of 2018). The other CRP(s) have been connected to the CRP No.1847 of 2024.

"27. We therefore consider it proper to refer the following questions to the larger bench and accordingly we make the reference:

- A. Whether the Amendment Act No.28 of 2018, in respect of Sections 2(1)(i) & 3(1A) of the Commercial Courts Act, 2015, by itself amends the 'specified value' as 'not less than three lakhs rupees', for the jurisdiction of the Commercial Court or it only enables the Central Government & the State Government(s) to do so, by notification specifying any amount, which shall not be less than three lakhs, as 'specified value', and it is only after such notification, the specified value shall stand amended ?

¹ CRP.No.1847 of 2024 dated 23.08.2024

- B. Whether the 'specified value' in Section 2(1)(i) in Commercial Courts Act, 2015, as substituted by Act 28 of 2018 to the effect "which shall not be less than Rupees three lakhs" in the place of "which shall not be less than Rupees One Crore" shall be operative and effective from
- i) the date of amendment i.e., w.e.f. 03.05.2018; or
 - ii) on the date notified in the notification being issued by the Central Government under Section 2(1)(i) of the Act; or
 - iii) on the date notified in the notification being issued by the Andhra Pradesh State Government in consultation with the High Court of Andhra Pradesh, as provided under Section 3(1A) of the Commercial Courts Act ?
- C. Which judgment, **U.V.Satyanarayana** (2nd supra) or **Bellam Balakrishna** (3rd supra), lays down the law correctly ?

I. Order of Reference:

2. The order of reference dated 23.08.2024 reads as under:

"Heard Sri Venkat Challa, learned counsel for the petitioner and Sri V. Yatendra Kumar, learned counsel for the respondent.

2. This Civil Revision Petition under Section 115 Code of Civil Procedure (in short 'CPC') has been filed by the petitioner/Judgment Debtor (J.Dr.), challenging the order dated 26.07.2024 in E.P.No.20 of 2024 passed by the XI Additional District Judge, Tadepalligudem.

3. By the said order, for attachment of property Order 21 Rule 54 CPC, notice has been issued to the petitioner.

4. The dispute having arises, between the petitioner and the respondent, an arbitrator was nominated vide letter dated 17.03.2020. The petitioner objected the same. The petitioner filed an application vide ARB.APPI.No.27 of 2020 under Section 11(6) of the Arbitration and Conciliation Act, 1996 (in short 'Arbitration Act') for appointment of any suitable arbitrator. However, the proceedings before the nominated arbitrator continued. The petitioner did not participate. The award was passed on 25.11.2021 in favour of the respondent. The petitioner filed I.A.No.1 of 2022 in ARB.APPL.No.27 of 2020 and submitted that the award dated 25.11.2021

was *exparte* and had no legal validity and sanctity and was *non est in law*, with further prayer to stay the enforcement of the award. Those proceedings are pending, without any stay order.

5. The respondent filed E.P.No.20 of 2024 for execution of award.

6. The petitioner did not file any objection. A memo is said to have been filed, about the ARB.APPI.No.27 of 2020 pending before the High Court under Section 11(6) of Arbitration Act as also I.A.No.1 of 2022. The Execution Court passed the order dated 26.07.2024, fixing 23.08.2024 to issue Rule 54 notice and attachment, on payment of process.

7. Learned counsel for the petitioner submitted that the Civil Court i.e., XI Additional District Judge, Tadepalligudem, has no jurisdiction to execute the award. There is lack of inherent jurisdiction. He further submitted that even if it be executable, it can be executed only by the Commercial Court at Visakhapatnam and not by the present Civil Court, in view of Section 10 & 15 R/w. Section 2(1)(i) of the Commercial Courts Act, 2015 (in short 'the Act'). The specified value of the award is Rs.78,66,839/-.

8. Learned counsel for the petitioner placed reliance in **M/s. Obulapuram Mining Company Pvt. Ltd., v. R.K. Mining Private Limited**², decided on 12.09.2023 by the Co-ordinate Bench. He submitted that as per the judgment in **M/s. Obulapuram Mining Company Pvt. Ltd.**, (1st supra), the execution petition/application is also the 'application' within the meaning of Sections 10 & 15 and with effect from 16.05.2019, by virtue of G.OMs.No.78, which constituted two Commercial Courts in the State of Andhra Pradesh in Vijayawada and Visakhapatnam, only such Commercial Courts have jurisdiction over the Commercial disputes of specified value even for execution and not the Civil Courts. He submitted that the execution petition which was pending in the Civil Court was transferred to the Commercial Court, Vijayawada, with further direction to start the proceedings afresh from 16.05.2019, also observing that all the orders passed after 16.05.2019 were by a *coram non-judice*; and were bad in law. He submitted that in the present case, the award being of the specified value of Commercial dispute, the execution petition should have been filed in the

² CRP.No.2183 of 2022

Commercial Court. The Civil Court where it is pending lacks inherent jurisdiction. He further submitted that SLP.No.23322-23325 of 2023 was filed against the judgment in **M/s. Obulapuram Mining Company Pvt. Ltd.**, (1st supra), which is pending before Hon'ble the Apex Court in which there is stay on transfer of the execution petition. He further submitted that another Co-ordinate Bench in **U.V.Satyanarayana v. M/s.Shriram City Union Finance Ltd.**³, considering the judgment in **M/s. Obulapuram Mining Company Pvt. Ltd.**, (1st supra), as also the stay order passed in SLP, set aside the proceedings in EP.No.151 of 2017 which were before the learned Principal District Judge, East Godavari District, with a liberty to respondent therein to either move for transfer of the execution petition to the Commercial Court at Visakhapatnam or in the alternative to withdraw the same and move a fresh execution petition before the Commercial Court.

9. Sri V. Yatendra Kumar, learned counsel for the respondent placed reliance in **Bellam Balakrishna v. Greenmount Developers**⁴ decided on 28.08.2023 to contend that another Co-ordinate Bench of this Court, held that, until the State Government issues a notification in consultation with the High Court, the pecuniary value of three lakhs, as fixed in Section 2(1)(i) of the Act, will not come into operation. He submitted that considering the specified value of the award, for execution before the Civil Court, being less than One Crore and in the absence of any notification under Section 3(1A) of the Act, the Civil Court has the jurisdiction to execute, and not the Commercial Court.

10. We have considered the aforesaid submissions and perused the provisions of the statute as also the judgments cited.

11. Section 2(1)(i) of the Act reads as under:

“(i) “Specified Value”, in relation to a commercial dispute, shall mean the value of the subjectmatter in respect of a suit as determined in accordance with section 12 which shall not be less than three lakh rupees or such higher value, as may be notified by the Central Government.”

³ CRP.No.740 of 2014

⁴ CRP.No.1749 of 2023

12. In Section 2(1)(i), the expression “which shall not be less than three lakh rupees” was substituted by Act No. 28 of 2018 vide Section 4(II), for the expression “which shall not be less than one Crore rupees”, with effect from 03.05.2018.

13. Section 3(1A) of the Act reads as under:

*(1A) Notwithstanding anything contained in this Act, the State Government may, after consultation with the concerned High Court, **by notification, specify such pecuniary value** which shall not be less than three lakh rupees or such higher value, for whole or part of the State, **as it may consider necessary.***

14. Section 2(1)(i) and 3(1A) both provide for ‘notification’ to specify such pecuniary value, which shall not be less than three lakh rupees or for such higher value. Notification, in the former case i.e., Section 2(1)(i) is by Central Government, and in the later case Section 3(1A) is by the State Government as it considers necessary, in consultation with the High Court for whole or part of the State. The power of the State Government is, notwithstanding anything contained in the Commercial Courts Act, which includes Section 2(1)(i).

15. Prima facie, we are of the view that, under Section 2(1)(i) it is for the Central Government to determine the specified value, by notification. The State Government has also the power under Section 3(1A) to do so, by notification. So, even if there is notification by the Central Government, the State Government may also issue notification to specify the specified value, subject to Sub-Section (1A). In the absence of any notification by the Central Government and also by the State Government the amended provision in Section 2(1)(i) shall not become operative. Prima facie, we are of the view that there must be a notification for the specified value, which shall not be less than three lakh rupees. The Act No. 28 of 2018, only enables the Central Government as also the State Government, to fix specified value, by notification. In the absence of any notification there would be no specification of a specified value. In other words, prima facie, the amendment of Act 28 of 2018 cannot be read as specifying the ‘specified value’ of its own force. After such amendment, the notification must follow. It is well settled in law that once the statute prescribes specified procedure that has to be followed.

Consequently, the specified value has to be notified and in the absence of any notification, merely by the amendment it cannot be that the specified value for Commercial Court stands amended as not less than three lakh rupees or that the commercial disputes of the specified value from three lakh rupees shall be in the Commercial Court and the jurisdiction of the Civil Court stands barred or ousted.

16. Learned counsels for both the parties submitted that there is no notification either by the Central Government or by the State Government.

17. In **M/s. Obulapuram Mining Company Pvt. Ltd.**, (1st supra), a Co-ordinate Bench held in para 53 as under:

53) Therefore, the following conclusions are reached by ironing out the creases:

a) The Commercial Court alone is competent to execute decrees, which are above the specified value. The regular Civil Court will not have the jurisdiction to entertain such Execution Petitions with effect from 16.05.2019 in the State of Andhra Pradesh.

b) It is only the Commercial Court, Vijayawada or the Commercial Court at Visakhapatnam which can entertain the Execution Petitions if they are above the specified value in view of the G.O.Ms.No.78.

c) All orders passed after 16.05.2019 are orders passed by a coram non-judice. They suffer from an inherent lack of jurisdiction and they are held to be per se bad in law.

d) The pending E.P.No.13 of 2016 shall be transferred to the Commercial Court, Vijayawada, and both the parties are given liberty to start the proceedings afresh from the said date i.e., 16.05.2019.

18. In **M/s. Obulapuram Mining Company Pvt. Ltd.**, (1st supra), the specified value was 32.86 Crores i.e., above One Crore.

19 In **Bellam Balakrishna** (3rd supra) a Co-ordinate bench held that even though the specified value is specified in Section 2(1)(i) of the Act as not less than three lakhs, still under Section 3(1A) of the Act a discretion is left to the State Government by notification to specify the pecuniary value

which shall not be less than three lakhs and not more than the pecuniary jurisdiction of the District Courts. This proviso, like all other provisos, carves out an exception to the main section and therefore, the State Government has to issue a notification fixing the value between three lakhs to the pecuniary jurisdiction exercisable by the District Court. That was also clarified and amplified by Section 3(1A) by Act 28 of 2018, which starts with a *non-obstante* clause and states that “notwithstanding anything contained in the Act”, which was interpreted to make it clear that, the further notification was needed from the State in consultation from the High Court. It was held that in the absence of notification by the State Government the pecuniary value of three lakhs as fixed in Section 2(1)(i) will not come into operation.

20. In **Bellam Balakrishna (3rd supra)**, a Co-ordinate Bench held as under:

“Therefore, on consideration of all the above, this Court is of the opinion that until the State Government issues a notification in consultation with the High Court, the pecuniary value of three lakhs, as fixed in Section 2(i) of the Act, will not come into operation. Therefore, this Court does not find any error in the objections raised by the Commercial Judge.”

21. Another Co-ordinate Bench in **U.V.Satyanarayana (2nd supra)** held that Section 2(i) of the Act had fixed the specified value to mean a value in respect of a suit which shall not be less than Rs. 1 Crore. However, this value was reduced to Rs. 3 lakhs by an Ordinance No.3 of 2018, which was subsequently replaced by the Central Act No.28 of 2018, with effect from 03.05.2018. The Co-ordinate Bench held that the Principal District Judge, East Godavari could not deal with E.P.No.151 of 2017, unless it was shown that the specified value was more than the amount being claimed in the execution petition. The Co-ordinate Bench took a view that the matter had to be placed before the Commercial Court.

22. Para Nos.9 to 14 in **U.V.Satyanarayana (2nd supra)** read as follows:

9. Section 2(1)(e) of the Arbitration Act defines Court to mean the Principal Civil Court of original jurisdiction in the District. Section 36 of the Arbitration Act stipulates that enforcement of an arbitral award is to be done in accordance with the provisions of the Code of Civil Procedure, 1908 in the

same manner as if it were a decree of the Court. This would mean that execution petitions would have to be filed before the Principal Civil Court of original jurisdiction in the District in as much as the Court has been defined under Section 2 (1)(e) to mean Principal Civil Court.

10. However, Section 10(3) of the Commercial Courts Act, 2015 reads as follows:-

“Section-10: Jurisdiction in respect of arbitration matters - Where the subject-matter of an arbitration is a commercial dispute of a Specified Value and—

(1)

(2)

(3) If such arbitration is other than an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) that would ordinarily lie before any principal civil court of original jurisdiction in a district (not being a High Court) shall be filed in, and heard and disposed of by the Commercial Court exercising territorial jurisdiction over such arbitration where such Commercial Court has been constituted.”

11. In view of this provision, the Principal Civil Court of original jurisdiction would have to be treated to be the Commercial Court having territorial jurisdiction over the said area. It may also be noted that Section 21 states that the Commercial Courts Act, 2015, save as otherwise provided will have effect over every other law which is in force for the time being.

12. This would clearly denude the power of the Learned Principal District Judge, East Godavari to deal with E.P.No.151 of 2017 unless it is shown that the specified value is more than the amount being claimed in the execution petition.

13. Section 2(i) of the Commercial Courts Act, 2015 had fixed the specified value to mean a value in respect of a suit which shall not be less than Rs.1,00,00,000/-. However, this value was reduced to Rs.3,00,000/- by an Ordinance No.3 of 2018, which was subsequently replaced by the Central Act No.28 of 2018, with effect from 03.05.2018.

23. In **U.V.Satyanarayana** (2nd supra), value of the award was Rs.46,46,965/- i.e., below One Crore rupees.

24. The apparent conflict which we find is that, in **Bellam Balakrishna** (3rd supra), without notification, the amendment vide Act No.28 of 2018 was held not to be operative so as to make the specified value 'not less than three lakhs', whereas in **U.V.Satyanarayana** (2nd supra) the specified value has been taken as amended vide Act No.28 of 2018, itself, to be 'not less than three lakhs'.

25. In **U.V.Satyanarayana** (2nd supra) the previous judgment of the Co-ordinate Bench in **Bellam Balakrishna** (3rd supra) was not noticed and appears that the same was not placed before the Co-ordinate Bench. Section 3(1A) also does not find consideration in **U.V.Satyanarayana** (2nd supra) which was considered in **Bellam Balakrishna** (3rd supra).

26. There is thus, apparent conflict in **U.V.Satyanarayana** (2nd supra) and in **Bellam Balakrishna** (3rd supra). Both are by the Co-ordinate Benches.

27. We therefore consider it proper to refer the following questions to the larger bench and accordingly we make the reference:

- A. Whether the Amendment Act No.28 of 2018, in respect of Sections 2(1)(i) & 3(1A) of the Commercial Courts Act, 2015, by itself amends the 'specified value' as 'not less than three lakhs rupees', for the jurisdiction of the Commercial Court or it only enables the Central Government & the State Government(s) to do so, by notification specifying any amount, which shall not be less than three lakhs, as 'specified value', and it is only after such notification, the specified value shall stand amended ?
- B. Whether the 'specified value' in Section 2(1)(i) in Commercial Courts Act, 2015, as substituted by Act 28 of 2018 to the effect "which shall not be less than Rupees three lakhs" in the place of "which shall not be less than Rupees One Crore" shall be operative and effective from
 - i) the date of amendment i.e., w.e.f. 03.05.2018; or

ii) on the date notified in the notification being issued by the Central Government under Section 2(1)(i) of the Act; or

iii) on the date notified in the notification being issued by the Andhra Pradesh State Government in consultation with the High Court of Andhra Pradesh, as provided under Section 3(1A) of the Commercial Courts Act ?

C. Which judgment, ***U.V.Satyanarayana*** (2nd supra) or ***Bellam Balakrishna*** (3rd supra), lays down the law correctly ?

28. The Registry shall place the matter before Hon'ble the Chief Justice for constitution of the larger Bench.

29. By an order dated 22.08.2024, we provided that the Execution Court shall adjourn the matter and fix any date in the next week. Learned counsel for the petitioner submitted that in the Execution case, the matter is for attachment of property, and the petitioner is ready to make deposit of 20% of the awarded amount under execution.

30. Accordingly, we provide that till the next date of listing, the execution proceedings in E.P.No. 20 of 2024 shall remain stayed subject to the petitioner depositing 20% of the awarded amount before the execution Court within a period of three weeks from today. The execution proceedings shall remain stayed for a period of three weeks as well, to enable the petitioner to make the deposit.

31. List before the appropriate Bench after the reference is answered."

3. The reference was made by the Division Bench finding apparent conflict in ***Bellam Balakrishna*** (supra) & ***U.V.Satyanarayana*** (supra).

4. In ***Bellam Balakrishna*** (supra) the view taken was that until the State Government issued a notification in consultation with the High Court, the pecuniary value of three lakhs, as fixed in Section 2(1)(i) of the Act, will not come into operation. It was held that though the specified

value is specified in Section 2(1)(i) of the Commercial Courts Act, 2015 as not less than three lakhs, under Section 3 of the Act still a discretion was left to the State Government, also referring to Section 3(1A) by Act 28 of 2018, which starts with a *non-obstante* clause and states that notwithstanding anything contained in the Act, the State Government may after consultation with the concerned High Court by notification specify such pecuniary value which shall not be less than three lakhs or such higher value for whole or part of the State. **Bellam Balakrishna** (supra) held that the State Government's jurisdiction or power in that aspect was spelt out at more than one place and the use of words "notwithstanding anything contained in this Act" made it clear that further notification was needed from the State Government after consultation with the concerned High Court.

5. In **U.V.Satyanarayana** (supra) the view taken was that Section 2(1)(i) of the Commercial courts Act, 2015 had fixed the specified value to mean a value in respect of a suit which shall not be less than Rs.1 Crore, which however, was reduced to Rs.3 lakhs by an Ordinance No.3 of 2018 replaced by the Central Act No.28 of 2018 with effect from 03.05.2018. So, the matter (EP) which was filed before the Principal District Judge should have been placed before the Commercial Court at Visakhapatnam which had the territorial jurisdiction and it was so directed. The amount

sought to be recovered was Rs.46,46,965/- i.e., below one Crore but not less than three lakhs.

II. Submissions of the learned counsels for the Petitioners:

6. Heard learned counsels for both the sides on the aforesaid points of reference and perused the material on record.

7. Learned counsels Sri Venkat Challa, Sri G.V.S.Kishore Kumar and Sri S.V.S.S.Siva Ram for the Revision Petitioners submitted that the 'specified value' as defined under Section 2(1)(i) of the Commercial Courts Act, 2015 as amended vide amendment Act 28 of 2018 of the Commercial Courts Act, 2015 i.e., 'not less than three lakh rupees' for the jurisdiction of the Commercial Court to become effective does not require the notification of the Central Government. It is only if the base value of the specified value is to be fixed at some higher value than three lakh rupees then only the notification of the Central Government would be required. Learned counsels for petitioners submitted that Section 2 (1) (i) uses the expression 'not less than three lakh' or such higher value as may be notified by the Central Government. 'Or' is disjunctive. So, the notification as required by the Central Government is with respect to 'such higher value' and not for 'not less than three lakhs' i.e., for 3 lakhs as base value.

8. Learned counsels for the petitioners further submitted that the expression used in Section 2 (1) (i) is 'may' and therefore it was not

mandatory on the part of the Central Government to issue any notification for the specified value. 'May' is directory.

9. With respect to the use of 'comma' (,) after the expression 'such higher value' in Section 2(1)(i), learned counsels for the petitioners submitted that 'comma' cannot have any effect on the submissions advanced by them as 'comma' cannot override the affect of the main provision, as per their argument of the provision.

10. Learned counsels for the petitioners further submitted that to be effective the 'specified value' after amendment, 'not less than three lakh rupees', the notification of the State Government as provided under Section 3(1A) of the Commercial Courts Act, 2015 is also not required. Such a provision is not for the 'specified value' under Section 2(1)(i) but is for the 'pecuniary value'. Both operate in different fields.

Submissions of the learned counsels for the Respondents:

11. Per contra the other set of the learned counsels for the respondents submitted that under Section 2(1)(i) of the Act 2015, for the specified value "not less than three lakh rupees" to be effective, the notification of the Central Government is must. Without the notification of the Central Government the new 'specified value' would not come into force. Their submission is that the expression "may" as used in Section 2(1)(i) is to be read as "shall" or "must". They submitted that 'may' can be

read as 'shall', and the use of the expression 'or' does not mean that the notification would be required only for 'such higher value'. They submitted that 'or' can be read as 'and'. So the Central Government's notification would be required for either of the parts.

12. Learned counsel for the respondent further submitted that the notification by the State Government under Section 3(1A) is also required for conferring the pecuniary value/jurisdiction on the Commercial Courts, without which the Commercial Courts will have no jurisdiction for the changed/reduced 'specified value' as substituted by the Act 28 of 2018.

13. Learned State Counsel also added and submitted that there is difference between the conditional legislation and delegated legislation. He referred to the judgment in the cases of ***A.K.Roy v. Union of India***⁵ and ***State of Tamil Nadu v. K. Sabanayagam***⁶ to contend that the present is a case of delegated legislation. The parliament after defining 'specified value' has delegated the power to fix the base value to the Central Government and to make the 'specified value' 'not less than three lakh'. Such delegated power is required to be exercised by the Central Government by issuing notification.

⁵ (1982) 1 SCC 271

⁶ (1998) 1 SCC 318

14. Learned counsels from both the sides cited the judgments of which reference shall be made during the course of analysis on the points of reference.

III. Consideration and Analysis:

(i) About the Commercial Courts Act, 2015:

15. To answer the reference, first of all, the object and purpose of the establishment of the Commercial Courts and the enactment of the Commercial Courts Act, 2015 deserves to be stated.

16. In *Jaycee Housing (P) Ltd. v. High Court of Orissa*⁷, the Hon'ble Apex Court considered the aforesaid aspect. It was observed that in the year 2003, the Law Commission of India took up the issue of constitution of Commercial Divisions in the High Courts with a view to facilitate fast disposal of high value commercial disputes. In its 188th Report, the Law Commission, recommended setting up of Commercial Division in each of the High Courts to expedite commercial cases of high pecuniary value. On the basis of the recommendations of the Law Commission, a Bill was introduced in Lok Sabha on 16.12.2009 and was passed on 18.12.2009 for setting up commercial divisions in the High Courts. The Bill was referred to a Select Committee which suggested certain amendments to the said Bill. The Bill was redrafted and placed before the Rajya Sabha for its consideration. The same was however withdrawn by the Government and the matter was again referred to the Law Commission

⁷ (2023) 1 SCC 549

for its report. The Law Commission in its 253rd Report submitted in January 2015 suggested a new approach for expediting commercial disputes and therefore proposed a new Bill. Accordingly, the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Bill, 2015 was introduced in Rajya Sabha on 29.4.2015 which was referred to Departmental Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice. While the matter was pending before the Parliamentary Committee, an Ordinance was promulgated by His Excellency the President of India on 23.10.2015, namely, the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Ordinance, 2015. Thereafter, the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act 2015 (Act No.4 of 2016/Principal Act) was passed by the Parliament. Thereafter, the said Act No.4 of 2016 was amended in the year 2018 vide the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Act 2018 (Act No.28 of 2018) with effect from 3.5.2018, and was also renamed as the Commercial Courts Act 2015.

(ii) Statement of objects and reasons for the Act 2015

17. The statement of objects and reasons for the enactment of the Commercial Courts Act, 2015 also deserves to be stated.

18. The statement of Objects and Reasons of the Commercial Courts Act, 2015 (Act No.4 of 2016) reads as under:

“Statement of Objects and Reasons: The proposal to provide **for speedy disposal of high value commercial disputes** has been under consideration of the Government for quite some time. The high value commercial disputes involve complex facts and question of law. Therefore, there is a need to provide for an independent mechanism for their early resolution. Early resolution of commercial disputes shall create a positive image to the investor world about the independent and responsive Indian legal system.”

(iii) Sections 2(1)(i), 3, 12 of the Act, 2015 prior to the amendment vide Act 28 of 2018

19. Section 2(1)(i) of the Commercial Courts Act, 2015, prior to amendment, 2018, defined ‘specified value’ and read as under:

“2. Definitions.—(1) In this Act, unless the context otherwise requires,—

.....

i)“Specified Value”, in relation to a commercial dispute, shall mean the value of the subject- matter in respect of a suit as determined in accordance with section 12 which shall not be less than one crore rupees or such higher value, as may be notified by the Central Government.”

20. Section 3 of Commercial Courts Act, 2015 prior to amendment, provided for constitution of Commercial Courts and read as under:

“3. Constitution of Commercial Courts.—(1) The State Government, may after consultation with the concerned High Court, by notification, constitute such number of Commercial Courts at District level, as it may deem necessary for the purpose of exercising the jurisdiction and powers conferred on those Courts under this Act:

Provided that no Commercial Court shall be constituted for the territory over which the High Court has ordinary original civil jurisdiction.

(2) The State Government shall, after consultation with the concerned High Court specify, by notification, the local limits of the area to which the jurisdiction of a Commercial Court shall extend and may, from time to time, increase, reduce or alter such limits.

(3) The State Government shall, with the concurrence of the Chief Justice of the High Court appoint one or more persons having experience in dealing with commercial disputes to be the Judge or Judges, of a Commercial Court, from amongst the cadre of Higher Judicial Service in the State.

21. Section 12 of Commercial Courts Act, 2015 prior to its amendment, provided for determination of the 'specified value' as under:

“12. (1) The Specified Value of the subject-matter of the commercial dispute in a suit, appeal or application shall be determined in the following manner:—

(a) where the relief sought in a suit or application is for recovery of money, the money sought to be recovered in the suit or application inclusive of interest, if any, computed up to the date of filing of the suit or application, as the case may be, shall be taken into account for determining such Specified Value;

(b) where the relief sought in a suit, appeal or application relates to movable property or to a right therein, the market value of the movable property as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining such Specified Value;

(c) where the relief sought in a suit, appeal or application relates to immovable property or to a right therein, the market value of the immovable property, as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining Specified Value;

(d) where the relief sought in a suit, appeal or application relates to any other intangible right, the market value of the said rights as estimated by the plaintiff shall be taken into account for determining Specified Value; and

e) Where the counterclaim is raised in any suit, appeal or application, the value of the subject-matter of the commercial dispute in such counterclaim as on the date of the counterclaim shall be taken into account.

(2) The aggregate value of the claim and counterclaim, if any as set out in the statement of claim and the counterclaim, if any, in an arbitration of a commercial dispute shall be the basis for determining whether such arbitration is subject to the jurisdiction of a Commercial Division, Commercial Appellate Division or Commercial Court, as the case may be.

(3) No appeal or civil revision application under section 115 of the Code of Civil Procedure, 1908 (5 of 1908), as the case may be, shall lie from an order of a Commercial Division or Commercial Court finding that it has jurisdiction to hear a commercial dispute under this Act.”

(iv) Amendment Act, 2018 (Act No.28 of 2018)

22. The Commercial Courts, Commercial Division and Commercial Appellate Division of High Court (Amendment) Act, 2018 (28 of 2018) received the assent of the President of India on 20.08.2018 and was published for general information on 21.08.2018. It was deemed to have come into force on 03.05.2018, save as otherwise provided by the Act 28 of 2018 itself.

(v) Statement of objects & reasons:

23. The statement of objects and reasons for the amendment introducing the amendment bill, 2018 reads as under:

“STATEMENT OF OBJECTS AND REASONS

The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 was enacted for the constitution of Commercial Courts, Commercial Division and Commercial Appellate Division

in the High Courts for adjudicating commercial disputes of specified value and for matters connected therewith or incidental thereto.

2. The global economic environment has since become increasingly competitive and to attract business at international level, India needs to further improve its ranking in the World Bank Doing Business Report which, inter alia, considers the dispute resolution environment in the country as one of the parameters for doing business. Further, the tremendous economic development has ushered in enormous commercial activities in the country including foreign direct investments, public private partnership, etc., which has prompted initiating legislative measures for speedy settlement of commercial disputes, widen the scope of the courts to **deal with commercial disputes** and facilitate ease of doing business. **Needless to say that early resolution of commercial disputes of even lesser value creates a positive image** amongst the investors about the strong and responsive Indian legal system. It is, therefore, proposed to amend the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015.

3. As Parliament was not in session and immediate action was required to be taken to make necessary amendments in the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015, to further improve India's ranking in the Doing Business Report, the President promulgated the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Ordinance, 2018 on 3rd May, 2018.

4. It is proposed to introduce the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Bill, 2018 to replace the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Ordinance, 2018, which inter alia, provides for the following namely:—

(i) to reduce the specified value of commercial disputes from the existing one crore rupees to three lakh rupees, and to enable the parties to approach the lowest level of subordinate courts for speedy resolution of commercial disputes;

(ii) to enable the State Governments, with respect to the High Courts having ordinary original civil jurisdiction, to constitute commercial courts at District Judge level and to specify such pecuniary value of commercial disputes which shall not be less than three lakh rupees and not more than the pecuniary jurisdiction of the district courts;

(iii) to enable the State Governments, except the territories over which the High Courts have ordinary original civil jurisdiction, to designate such number of Commercial Appellate Courts at district judge level to exercise the appellate jurisdiction over the commercial courts below the district judge level;

(iv) to enable the State Governments to specify such pecuniary value of a commercial dispute which shall not be less than three lakh rupees or such higher value, for the whole or part of the State; and

(v) to provide for compulsory mediation before institution of a suit, where no urgent interim relief is contemplated and for this purpose, to introduce the Pre-Institution Mediation and Settlement Mechanism and to enable the Central Government to authorise the authorities constituted under the Legal Services Authorities Act, 1987 for this purpose.

5. The Bill seeks to achieve the above objectives.

RAVI SHANKAR PRASAD.

NEW DELHI;
The 17th July, 2018.

(vi) Relevant Amendments vide Act 28 of 2018

24. The Amendment Act 28 of 2018, *inter alia* made the following amendments in the Act No.4 of 2016 (the Principal Act) relevant for the present purposes by insertion or substitution;

“Amendment of long title. 2. *In the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (hereinafter referred to as the principal Act), in the long title, after the words "Commercial Courts", the words "Commercial Appellate Courts," shall be inserted.* 4 of 2016

Amendment 3. *In section 1 of the principal Act, for sub-section (1), the following*

of section 1.	<i>sub-section shall be substituted, namely:-</i>	5
	<i>"(1) This Act may be called the Commercial Courts Act, 2015."</i>	
	<i>4. In section 2 of the principal Act, in sub-section (1),-</i>	
Amendment of section 2.	<i>(1) clause (a) shall be renumbered as clause (aa) thereof, and before clause (aa) as so renumbered, the following clause shall be inserted, namely:-</i>	10
	<i>"(a) "Commercial Appellate Courts" means the Commercial Appellate Courts designated under section 3A;;</i>	
	<i>(II) in clause (i), for the words "which shall not be less than one crore rupees", the words "which shall not be less than three lakh rupees" shall be substituted.</i>	15
Substitution of chapter heading	<i>5. In the principal Act, in Chapter II, for the Chapter heading, the following Chapter heading shall be substituted, namely:-</i>	
	<i>"COMMERCIAL COURTS, COMMERCIAL APPELLATE COURTS, COMMERCIAL DIVISIONS AND COMMERCIAL APPELLATE DIVISIONS".</i>	20
Amendment of section 3.	<i>6. In section 3 of the principal Act,-</i>	
	<i>(a) in sub-section (1), for the proviso, the following provisos shall be substituted, namely:-</i>	
	<i>"Provided that with respect to the High Courts having ordinary original civil jurisdiction, the State Government may, after consultation With the concerned High Court, by notification, constitute Commercial Courts at the District Judge level:</i>	25
	<i>Provided further that with respect to a territory over which the High Courts have ordinary original civil jurisdiction, the State Government may, by notification, specify such pecuniary value which shall not be less than three lakh rupees and not more than the pecuniary jurisdiction exercisable by the District Courts, as it may consider necessary."</i>	30
	<i>(b) after sub-section (1), the following sub-section shall be inserted, namely:-</i>	
	<i>"(IA) Notwithstanding anything contained in this Act, the State Government may, after consultation with the concerned High Court, by notification, specify such pecuniary value which shall not be less than three lakh rupees or such higher value, for whole or part of the State, as it may consider necessary."</i>	35
	<i>(c) in sub-section(3),-</i>	
	<i>(i) for the words "State Government shall", the words "State Government may" shall be substituted;</i>	40
	<i>(ii) for the words "Commercial Court, from amongst the cadre of Higher Judicial Service in the State", the following words shall be substituted, namely:-</i>	

"Commercial Court either at the level of District Judge or a court below the level of a District Judge." 45

7. After section 3 of the principal Act, the following section shall be inserted, namely: Insertion of new section 3A

5 "3A. Except the territories over which the High Courts have ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, designate such number of Commercial Appellate Courts at District Judge level, as it may deem necessary, for the purposes of exercising the jurisdiction and powers conferred on those Courts under this Act." Designation of Commercial Appellate Courts.

10 8. In section 4 of the principal Act, in sub-section (1), for the words "ordinary civil jurisdiction", the words "ordinary original civil jurisdiction" shall be substituted. Amendment of section 4.

9. Section 9 of the principal Act shall be omitted. Omission of Section 9.

10. In section 12 of the principal Act, in sub-section (1).- Amendment of Section 12.

15 (i) in clause (c), after the words "Specified Value;"; the word "and" shall be inserted;

(ii) in clause (d), the word "and", occurring at the end, shall be omitted;

(iii) clause (e) shall be omitted.

Application of provisions of this Act to cases filed on or after its commencement Repeal and savings.

19. Save as otherwise provided, the provisions of this Act shall apply only to cases relating to commercial disputes filed on or after the date of commencement of this Act.

....."

25. *Inter alia*, Section 4 of the Act No.28/18 made changes in Section 2 of the Principal Act. In sub-section (1) the definition of 'specified value' clause (i) for the words "which shall not be less than one crores of rupees", the words "which shall not be less than three lakh rupees" were substituted.

26. Section 3 of the Principal Act was amended vide Section 6 of the Act 28 of 2018. In sub-section (1) of Section 3 for the proviso, the new two provisos were substituted and after sub-section (1) of Section 3, sub-section (1A) was inserted. In sub-section (3) the 'State Government shall' was substituted by 'State Government may' and the 'Commercial Court from amongst the cadre of Higher Judicial Services in the State' was substituted by 'Commercial Court either at the level of District Judge or a Court below the level of a District Judge' By Section 7 of the Act No.28 of 2018 after Section 3 of the Principal Act, Section 3A was inserted "Designation of Commercial Appellate Courts".

27. Section 19 of the Act 28 of 2018 also deserves reproduction. It provided as under:

"Save as otherwise provided the provisions of this Act shall apply only to cases relating to commercial dispute filed on or after the date of commencement of this Act."

The date of commencement of Act No.28 of 2018 is 03.05.2018.

(vii) Section 2(1)(i), 3, 3A, 12, 21 of Commercial Courts Act, 2015 after amendment:

28. Section 2(1)(i) of the Commercial Courts Act, 2015, as amended by Act 28 of 2018 defines 'specified value' as under:

"2. Definitions.—(1) In this Act, unless the context otherwise requires,—

.....

(i) "Specified Value", in relation to a commercial dispute, shall mean the value of the subject-matter in respect of a suit as determined in

accordance with section 12 which shall not be less than three lakh rupees or such higher value, as may be notified by the Central Government.”

29. Section 3 of Commercial Courts Act, 2015 as amended by Act 28 of 2018 provides for constitution of the Commercial Court as under:

“3. Constitution of Commercial Courts.—(1) The State Government, may after consultation with the concerned High Court, by notification, constitute such number of Commercial Courts at District level, as it may deem necessary for the purpose of exercising the jurisdiction and powers conferred on those Courts under this Act:

Provided that with respect to the High Courts having ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, constitute Commercial Courts at the District Judge level:

Provided further that with respect to a territory over which the High Courts have ordinary original civil jurisdiction, the State Government may, by notification, **specify such pecuniary value** which shall not be less than three lakh rupees **and not more than the pecuniary jurisdiction exercisable by the District Courts**, as it may consider necessary.

(1A) Notwithstanding anything contained in this Act, the State Government may, after consultation with the concerned High Court, by notification, **specify such pecuniary value which shall not** be less than three lakh rupees or such higher value, for whole or part of the State, as **it may consider necessary**.

(2) The State Government shall, after consultation with the concerned High Court specify, by notification, the local limits of the area to which the jurisdiction of a Commercial Court shall extend and may, from time to time, increase, reduce or alter such limits.

(3) The State Government may, with the concurrence of the Chief Justice of the High Court appoint one or more persons having experience in dealing with commercial disputes to be the Judge or Judges, of a

Commercial Court either at the level of District Judge or a court below the level of a District Judge.”

30. Section 3A of Commercial Courts Act, 2015 as amended by Act 28 of 2018 reads as under:

“3A. Designation of Commercial Appellate Courts.—Except the territories over which the High Courts have ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, designate such number of Commercial Appellate Courts at District Judge level, as it may deem necessary, for the purposes of exercising the jurisdiction and powers conferred on those Courts under this Act.”

31. Section 12 of Commercial Courts Act, 2015, as amended by Act 28 of 2018 provides for the determination of the ‘specified value’ as under:

“12. Determination of Specified Value.—(1) The Specified Value of the subject-matter of the commercial dispute in a suit, appeal or application shall be determined in the following manner:—

(a) where the relief sought in a suit or application is for recovery of money, the money sought to be recovered in the suit or application inclusive of interest, if any, computed up to the date of filing of the suit or application, as the case may be, shall be taken into account for determining such Specified Value;

(b) where the relief sought in a suit, appeal or application relates to movable property or to a right therein, the market value of the movable property as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining such Specified Value;

(c) where the relief sought in a suit, appeal or application relates to immovable property or to a right therein, the market value of the

immovable property, as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining Specified Value; 1[and]

(d) where the relief sought in a suit, appeal or application relates to any other intangible right, the market value of the said rights as estimated by the plaintiff shall be taken into account for determining Specified Value;

(2) The aggregate value of the claim and counterclaim, if any as set out in the statement of claim and the counterclaim, if any, in an arbitration of a commercial dispute shall be the basis for determining whether such arbitration is subject to the jurisdiction of a Commercial Division, Commercial Appellate Division or Commercial Court, as the case may be.

(3) No appeal or civil revision application under section 115 of the Code of Civil Procedure, 1908 (5 of 1908), as the case may be, shall lie from an order of a Commercial Division or Commercial Court finding that it has jurisdiction to hear a commercial dispute under this Act.”

32. Section 21 of the Commercial Courts Act, 2015 provides for this Act to have overriding effect. It reads s under:

“21. Act to have overriding effect.—Save as otherwise provided, the provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law for the time being in force other than this Act.”

III.A Consideration on Question No. ‘A’

33. Having mentioned the relevant provisions of law, now I proceed to consider Question ‘A’ of the reference.

34. Section 2 (1) (i) defines ‘specified value’ in relation to a commercial dispute which shall mean the value of the subject matter in respect of a

suit as determined in accordance with section 12 (1) which shall not be less than three lakh rupees or such higher value, as may be notified by the Central Government.

35. So, specified value as defined is 'not less than three lakh rupees', which means 'from three lakh rupees'. In other words 'three lakh rupees' is the base value of the specified value of a Commercial dispute. The specified value is determined as per Section 12 of the Act. On such determination of the value of the commercial dispute it should be not less than three lakh, so as to be covered under the Act, 2015.

36. Learned counsels for the petitioners submitted that in Section 2(1)(i) the expression used is 'or', between "which shall not be less than three lakhs" and "such higher value". The expression 'or' is disjunctive and separates the first part "which shall not be less than three lakhs" from the second part "such higher value". The expression "as may be notified by the Central Government" would govern or control the second part 'such higher value'. It is only for the 'higher value' notification from the Central Government is required and not for "not less than rupees three lakhs". So even in the absence of a notification by the Central Government, the specified value would be taken as 'not less than rupees three lakhs' i.e., from rupees three lakhs, as there is no notification by the Central Government. The contention of the respondents counsels is that

'or' can be read as 'and' as well, so Central Government notification will be required for any amount of the 'specified value'.

(i) Interpretation of word 'Or':

37. The word 'or' is normally disjunctive. The word 'and' is normally conjunctive. But at times they are read as vice versa, to give effect to the manifest intention of the legislature as disclosed from the context.

38. In ***Cable Corporation of India Limited v. Additional Commissioner of Labour***⁸, the Hon'ble apex Court held as under in paras 11 to 14:

“11. The word “or” is normally disjunctive and “and” is normally conjunctive. But at times they are read as vice versa to give effect to the manifest intention of the legislature as disclosed from the context. As stated by Scrutton, L.J.:

“You do sometimes read 'or' as 'and' in a statute. But you do not do it unless you are obliged because 'or' does not generally mean 'and' and 'and' does not generally mean 'or'. And as pointed out by Lord Halsbury the reading of 'or' as 'and' is not to be resorted to, 'unless some other part of the same statute or the clear intention of it required that to be done'. But if the literal reading of the words produces an unintelligible or absurd result 'and' may be read for 'or' and 'or' for 'and' even though the result of so modifying the words is less favourable to the subject provided that the intention of the legislature is otherwise quite clear. Conversely if reading of 'and' as 'or' produces grammatical distortion and makes no sense of the portion following 'and', 'or' cannot be read in place of 'and'. The alternatives joined by 'or' need not always be mutually exclusive.”

⁸ (2008) 7 SCC 680

12. In *Fakir Mohd. v. Sita Ram* [(2002) 1 SCC 741] it was held that the word “or” is normally disjunctive. The use of the word “or” in a statute manifests the legislative intent of the alternatives prescribed under law.

13. Had the legislature intended that the reference could be made after the Government or the specified authority deals with the review power, it would have said so specifically by specific words. It could have provided for a direct reference. The parameters of review are different from a reference.

14. A plain reading of the provision makes the position clear that two courses are open. Power is conferred on the appropriate Government to either on its own motion or on an application made, review its order or refer the matter to the Tribunal. Whether one or the other of the courses could be adopted depends on the fact of each case, the surrounding circumstances and several other relevant factors.”

39. In *Spentex Industries Limited v. Commissioner of Central Excise*⁹, the Hon’ble Apex Court held that these two words normally “or” and “and” are to be given their literal meaning unless there is a clear instruction otherwise and it requires so to be done. Paras 28 to 32 of *Spentex Industries limited* (supra) read as under:

“Interpretation of word “or” occurring in Rule 18

28. The aforesaid discussion leads us to the only inevitable consequence which is this : **the word “or” occurring in Rule 18 cannot be given literal interpretation as that leads to various disastrous results** pointed out in the preceding discussion and, **therefore, this word has to be read as “and” as that is what was intended by the rule-maker in the scheme of things and to carry out the objectives of Rule 18 and also to bring it on a par with Rule 19.**

29. We are conscious of the principle that the word “or” is normally disjunctive and “and” is normally conjunctive (see *Union of India v. Kamalabai Harjivandas Parekh* [AIR 1968 SC 377 : (1968) 1 SCR 463]). However, there may be circumstances where these words are to be read as vice versa to

⁹ (2016) 1 SCC 780

give effect to manifest intention of the legislature as disclosed from the context.

30. Of course, these two words normally “or” and “and” are to be given their literal meaning in unless some other part of the same statute or the clear intention of it requires that to be done. **However, wherever use of such a word viz. “and”/“or” produces unintelligible or absurd results, the Court has the power to read the word “or” as “and” and vice versa to give effect to the intention of the legislature which is otherwise quite clear.** This was so done in *State of Bombay v. R.M.D. Chamarbaugwala* [AIR 1957 SC 699 : 1957 SCR 874] and while doing so, the Court observed as under : (AIR p. 709, para 20)

“20. ... Considering the nature, scope and effect of the impugned Act, we entertain no doubt whatever that the first category of prize competitions does not include any innocent prize competitions. Such is what we conceive to be the clear intention of the legislature as expressed in the impugned Act read as a whole and to give effect to this obvious intention as we are bound to do, we have perforce to read the word ‘or’ appearing in the qualifying clause after the word ‘promoter’ and before the word ‘or’ as ‘and’. Well-known canons of construction of statutes permit us to do so. (See *Maxwell on the Interpretation of Statutes*, 10th Edn., p. 238.)”

31. In *J. Jayalitha v. Union of India* [(1999) 5 SCC 138 : 1999 SCC (Cri) 670] , the provisions of Section 3 of the Prevention of Corruption Act, 1988 empower the Government to appoint as many Special Judges as may be necessary for such area or areas *or* for such case or group of cases, as may be specified in the notification. Construing the italicised “or” it was held that it would mean that the Government has the power to do either or both the things i.e. the Government may, even for an area for which a Special Judge has been appointed, appoint a Special Judge for a case or group of cases.

32. Likewise, in *Mazagaon Dock Ltd. v. CIT and Excess Profits Tax* [AIR 1958 SC 861 : (1959) 1 SCR 848] , **word “or” occurring under Section 42(2) of the Income Tax Act, 1922 was construed as “and” when the Court found that the legislature “could not have intended” use of the expression “or” in that Section.** We have already explained the statutory scheme contained in the Act and the Rules which express manifest intention of the legislature which provide for granting of both kinds of rebates to the

assessee. In *Mazagaon Dock Ltd.* [AIR 1958 SC 861 : (1959) 1 SCR 848] , this aspect was explained in the following manner : (AIR p. 865-66, para 10)

“10. The word ‘or’ in the clause would appear to be rather inappropriate, as it is susceptible of the interpretation that when some profits are made but they are less than the normal profits, tax could only be imposed either on the one or on the other, and that accordingly a tax on the actual profits earned would bar the imposition of tax on profits which might have been received. Obviously, that could not have been intended, and the word ‘or’ would have to be read in the context as meaning ‘and’. Vide *Maxwell’s Interpretation of Statutes*, 10th Edn., pp. 238-39. But that, however, does not affect the present question which is whether the word ‘derived’ indubitably points to the business of the non-resident as the one taxable under Section 42(2), and for the reasons already given, the answer must be in the negative.”

40. In ***Kamta Prasad Aggarwal v. Executive Officer, Ballabgarh***¹⁰

Hon’ble Apex Court held that :

“12. Again, the language of Article 276(2) shows that the Constitution uses the words “any one person” in juxtaposition with any one municipality, district board, local board or other authority. The provisions are clear in their effect that the word “or” occurring between the words “the State” and the words “to any one municipality” cannot be read as the word “and” in a conjunctive sense.”

41. In ***Hyderabad Asbestos Cement Products v. Union of India***¹¹

on the aspect of the expression ‘and’ and ‘or’ the Hon’ble Apex Court held that :

“8. The language of the rule is plain and simple. It does not admit of any doubt in interpretation. Provisos (i) and (ii) are separated by the use of the conjunction “and”. They have to be read conjointly. The requirement of both the provisos has to be satisfied to avail the benefit. **Clauses (a) and (b) of**

¹⁰ (1974) 4 SCC 440

¹¹ (2000) 1 SCC 426

proviso (ii) are separated by the use of an “or” and there the availability of one of the two alternatives would suffice.”

42. In *J.Jayalalitha v. Union of India*¹² the Hon’ble Apex Court held that:

“9.The dictionary meaning of the word “or” is “a particle used to connect words, phrases, or classes representing alternatives”. **The word “or”, which is a conjunction, is normally used for the purpose of joining alternatives and also to join rephrasing of the same thing but at times to mean “and” also.** Alternatives need not always be mutually exclusive. Moreover, **the word “or” does not stand in isolation and, therefore, it will not be proper to ascribe to it the meaning which is not consistent with the context of Section 3. It is a matter of common knowledge that the word “or” is at times used to join terms when either one or the other or both are indicated.** Section 3 is an empowering section and depending upon the necessity the Government has to appoint Special Judges for an area or areas or case or group of cases. Even in the same area where a Special Judge has already been appointed, a necessity may arise for appointing one more Special Judge for dealing with a particular case or group of cases because of some special features of that case or cases or for some other special reasons. We see no good reason to restrict the power of the Government in this behalf by giving a restricted meaning to the word “or”. In our opinion, the word “or” as used in Section 3 would mean that the Government has the power to do either or both the things. Therefore, the first contention raised on behalf of the appellants has to be rejected.”

43. The expression ‘or’ therefore is normally disjunctive. Sometimes it is used in a statute to manifest the intention of the legislature of the alternatives prescribed under law as well. Normally the expression is to be given literal meaning. Giving literal meaning to the word ‘or’ if it provides an unintelligible or absurd results, then it can also be read as

¹² (1999) 5 SCC 138

'and' or otherwise permissible to give effect to the manifest intention of the legislature as disclosed from the context. However in the present case in the context of Section 2(1)(i) the use of the word 'or' is disjunctive. It separates the first part 'which shall not be less than three lakhs' from the second part 'such higher value'. The legislative intent is very clear. It is that, the specified value cannot be less than rupees three lakhs. It is from three lakhs but it can also be of higher value. For higher value the discretion is left to the Central Government. So the intention being clear and the use of word 'or' providing for the alternative base value of the specified value, both the courses are open. The first is as fixed by the legislature itself and the second of 'higher value' which may be specified by the Central Government in the manner prescribed. So long as the second course is not adopted, the first remains and continues. I do not find any reason to read the word 'or' as 'and', nor not to read it as 'or', which gives the clear intention of the legislature.

(ii) Use of Comma (,) punctuation:

44. In Section 2(1)(i) after the expression "or such higher value' comma (,) has been used followed by "as may be notified by the Central Government". The question is what does use of comma (,) mean.

45. In ***Union of India v. Rabinder Singh***¹³, between two parts of Section 52(f) of Army Act, 1950 a 'comma' and the expression 'or' were used. The Hon'ble Apex Court, accepted the submission that if the legislature wanted both these parts to be read together, it would have used the conjunction 'and'.

46. Para 25 in ***Rabinder Singh*** (supra) reads as under:

“25. We accept the submission of Shri Tripathi that the two parts of Section 52(f) are disjunctive, which can also be seen from the fact that there is a comma and the conjunction “or” between the two parts of this clause (f) viz. (i) does any other thing with intent to defraud, and (ii) to cause wrongful gain to one person or wrongful loss to another person. **If the legislature wanted both these parts to be read together, it would have used the conjunction “and”**. As we have noted earlier in *Vimla* [AIR 1963 SC 1572 : (1963) 2 Cri LJ 434] it was held that the term “fraudulently” is wider than the term “dishonestly” which however, requires a wrongful gain and a wrongful loss. The appellants had charged the respondent for acting with “intent to defraud”, and therefore it was not necessary for the appellants to refer to the second part of Section 52(f) in the charge. The reliance by the Division Bench on the judgment in *S. Harnam Singh* [(1976) 2 SCC 819 : 1976 SCC (Cri) 324 : AIR 1976 SC 2140] to justify the conclusions drawn by it was clearly erroneous.”

47. In ***Aswini Kumar Ghosh*** (supra) it was held that when a statute is carefully punctuated and there is doubt about its meaning, a weight should undoubtedly be given to the punctuation. It was held that the punctuation may have its uses in some cases, but it cannot certainly be regarded as a controlling element and cannot be allowed to control the

¹³ (2012) 12 SCC 787

plain meaning of a text. Paragraph No.58 in **Aswini Kumar Ghosh** (supra) relevant part reads as under:

“58. Punctuation is after all a minor element in the construction of a statute, and very little attention is paid to it by English courts. Cockburn, C.J. said in *Stephenson v. Taylor* [*Stephenson v. Taylor*, (1861) 1 B & S 101 : 121 ER 652] : (ER p. 654)

“... On the Parliament roll there is no punctuation, and we therefore are not bound by that in the printed copies.”

It seems, however, that in the vellum copies printed since 1850 there are some cases of punctuation, and when they occur they can be looked upon as a sort of *contemporanea expositio* [*Craies on Statute Law*, p. 185] . **When a statute is carefully punctuated and there is doubt about its meaning, a weight should undoubtedly be given to the punctuation** [*Crawford on Statutory Construction*, p. 383] . I need not deny that punctuation may have its uses in some cases, **but it cannot certainly be regarded as a controlling element and cannot be allowed to control the plain meaning of a text** [*Ibid.*] .”

48. On the meaning and use of ‘comma’, in **C.V.Raju v. C. Balagopal**¹⁴ it was held by this Court as under in paragraphs 8, 9, 14 and 16:

“8. In *Oxford Dictionary* the meaning of “comma” is stated as follows:

“comma: n. 1 a punctuation mark (,) indicating a pause between parts of a sentence, or dividing items in a list, string of figures, etc. 2. Mus. A definite minute interval or difference of pitch.”

In the said dictionary, the author while dealing with the “Punctuation Marks” (Appendix VIII) explained about ‘comma’, which reads:

“5. Comma(,)

5.1 Use of the comma is more difficult to describe than other punctuation marks, and there is much variation in practice. Essentially, its role is to give detail to the structure of sentences, especially longer ones, and make their meaning clear. Too

¹⁴ 2001 SCC OnLine AP 442

many commas can be distracting; too few can make a piece of writing difficult to read or, worse, difficult to understand.

5.2.1. The comma is widely used to separate the main clauses of a compound sentence when they are not sufficiently close in meaning or content to form a continuous unpunctuated sentence, and are not distinct enough to warrant a semicolon. A conjunction such as and, but, yet, etc., is normally used:

The road runs through a beautiful wooded valley, and the railway line follows it closely.

5.2.2. It is considered incorrect to join the clauses of a compound sentence without a conjunction. In the following sentence, the comma should either be replaced semicolon, or be retained and followed by and:

I like swimming very much, I go to the pool every week.

5.2.3. It is also considered incorrect to separate a subject from its verb with a comma:

Those with the smallest incomes and no other means, should get most support.

5.3.1. Commas are usually inserted between adjectives coming before a noun:

An enterprising, ambitious person. A cold, damp, badly heated room.

5.3.2. But the comma is omitted when the last adjective has a closer relation to the noun than the others:

A distinguished foreign politician.

A little old lady,

9. In *Webster's Dictionary* the word "comma" means:

"comma: n. [a short clause in a sentence; that which is struck or cut off, from koptein, to cut-off]

(1) a mark of punctuation (,) used to indicate a slight separation of sentence elements: commas are used to set off non-restrictive or parenthetical elements, quotations, items in a series, etc

(2) a slight pause

(3) in music, any of various minute intervals, as that between the major and the minor tone

(4) in ancient prosody, a phrase or short clause.

(5) a butterfly, *Grapta comma-album*, bearing a white, comma-shaped mark on the lower wings.

Comma bacillus; a comma-shaped bacillus, also known as the cholera bacillus, because it causes Asiatic cholera."

14. In Wren and Martin Grammar and Composition Book, the author defines the usage of “comma”, which reads:

“265. The COMMA represents the shortest pause, and is used:

(1) To separate a series of words in the same construction; as England, France and Italy formed an alliance. He lost lands, money, reputation and friends. It was a long, dull and wearisome journey. He wrote, his exercise neatly, quickly and correctly.

Note: A comma is generally not placed before the word preceded by and.

(2) To separate each pair of words connected by and as we should be devout and humble, cheerful and serene. High and low rich and poor, wise and foolish. Must all dies.

(3) After a native absolute: as

This done she retained to the old man with a lovely smile on her face. The wind being favourable, the squadron sailed. The genius making me no answer, I turned about to address myself to him a second time.

(4) To mark off Noun or phrase in apposition:”

16. In the instant case, however, “comma” has been used to support all disjunctive words. Having regard to the fact that the clause prescribed for educational qualifications speaks of a qualification essential for holding a responsible post, and, thus, it is not possible for this Court to accept the submission that only because the same had been interpreted differently at an earlier point of time the same should be allowed to prevail”

49. The use of ‘comma’ (,) after ‘such higher value’ is only a mark of punctuation. There is no doubt about the meaning of specified value. The punctuation is a minor element in the construction of a statute. It cannot be allowed to control the plain meaning of a text. Here, it has been used to give detail, to the structure of the sentence, which is longer one and to make their meaning clear. That comma ‘(,)’ in my view cannot be regarded as controlling the meaning of the ‘specified value’ i.e., ‘not less than three lakh’ and in case of ‘higher value’ to be so notified by the Central Government.

(iii) Use of expression 'May', its meaning:

50. Now coming to the use of expression 'may' in Section 2(1)(i) it was contended by the learned counsels for the petitioners that 'may' is directory and so there is no mandate to issue the notification by the Central Government. The learned counsel for respondents submitted that the word "may" in the expression "as may be notified by the Central Government" shall be read as "must" or "shall" and 'may' is not always directory.

51. In ***State of Uttar Pradesh v. Jogendra Singh***¹⁵, it was held that the expression "may" is capable of meaning "must" or "shall" in the light of the context though generally it does not mean 'must' or 'shall'. The Hon'ble Apex Court held as under in para 8:

"8. Rule 4(2) deals with the class of gazetted government servants and gives them the right to make a request to the Governor that their cases should be referred to the Tribunal in respect of matters specified in clauses (a) to (d) of sub-rule (1). The question for our decision is whether like the word "may" in Rule 4(1) which confers the discretion on the Governor, the word "may" in sub-rule (2) confers the discretion on him, or does the word "may" in sub-rule (2) really mean "shall" or "must"? There is no doubt that the word "may" generally does not mean "must" or "shall". But it is well settled that the word "may" is capable of meaning "must" or "shall" in the light of the context. It is also clear that where a discretion is conferred upon a public authority coupled with an obligation, the word "may" which denotes discretion should be construed to mean a command. Sometimes, the legislature uses the word "may" out of deference to the high status of the authority on whom the power and

¹⁵ AIR 1963 SC 1618

the obligation are intended to be conferred and imposed. In the present case, it is the context which is decisive.”

52. In ***State (Delhi Admn.) v. I.K.Nangia***¹⁶ the Hon’ble Apex Court held:

“15.Normally, the word “may” implies what is optional, but for the reasons stated, it should in the context in which it appears, mean “must”. There is an element of compulsion. It is a power coupled with a duty. In Maxwell on Interpretation of Statutes, 11th Edn. at p. 231, the principle is stated thus:

“Statutes which authorise persons to do acts *for the benefit of others or, as it is sometimes said, for the public good* or the advancement of justice, have often given rise to controversy when conferring the authority in terms simply enabling and not mandatory. In enacting that they ‘may’ or ‘shall, if they think fit’, or, ‘shall have power’, or that ‘it shall be lawful’ for them to do such acts, a statute appears to use the language of mere permission, but it has been so often decided as to have become an axiom that in such cases such expressions may have — to say the least — a compulsory force, and so would seem to be modified by judicial exposition.” (emphasis supplied).....”

53. In ***Sahodara Devi v. Government of India***¹⁷ the Hon’ble Apex Court held that:

“5. Normally, the word “may” is used to grant a discretion and not to indicate a mandatory direction. Had the intention been that the Military Estates Officer must grant a lease in all cases, the word used would have been “shall” instead of “may”. It is true that the word “may”, in some context, has been interpreted as containing a mandatory direction and the authority given the power has to exercise that power unless there be special reasons.”

¹⁶ (1980) 1 SCC 258

¹⁷ (1972) 3 SCC 156

“6. It may be noticed that, in that case, the word “may” as used in the general sub-section (2) was not held to indicate a mandatory direction. It was only in sub-section (3), because of the special context, that the Court held that the word “may” was equivalent to “shall” or “must”. In the case before us, Rule 27 only confers a power in general on the Military Estates Officer to grant leases and, by using the word “may”, it clearly gives him discretion to grant it in suitable cases.”

54. In *Ramji Missir v. The State of Bihar*¹⁸, the Hon’ble Apex Court, on the expression “may” held as under in para Nos.15 & 16:

“15. A considerable portion of the argument by the respondent was based on the import of the facultative verb “may” in the words “*may be made*” occurring in the operative part of the sub-section as conferring a discretion and that as no limitations were placed by this or any other section on the exercise of this discretion, the same “should be held to be unfettered and therefore capable of being exercised, no doubt, on judicial principles but not subject to any statutory limitations. It might be mentioned that from the relevant passage of the judgment of the High Court which we have extracted, it would appear that the learned Judge has proceeded on this interpretation of Section 11.

16. Though the word “may” might connote merely an enabling or premissive power in the sense of the usual phrase “it shall be lawful”, it is also capable of being construed as referring to a compellable duty, particularly when it refers to a power conferred on a court or other judicial authority. As observed in *Maxwell on Statutes*:

“Statutes which authorise persons to do acts for the benefit of others, or, as it is sometimes said, for the public good or the advancement of justice, have often given rise to controversy when conferring the authority in terms simply enabling and not mandatory. In enacting that they ‘may’, or shall, if they think fit, or, ‘shall have power,’ or that ‘it shall be lawful’ for them to do such acts, a statute appears to use the language of mere permission, but it has been so often decided as to have become an axiom that in such cases such

¹⁸ AIR 1963 SC 1088

expressions may have — to say the least — a compulsory force.....”

55. In ***C.Bright v. The District Collector***¹⁹ the Hon’ble Apex Court on the aspect of “may” and “shall” held as under in paragraph 8:

“8. A well-settled rule of interpretation of the statutes is that the use of the word “shall” in a statute, does not necessarily mean that in every case it is mandatory that unless the words of the statute are literally followed, the proceeding or the outcome of the proceeding, would be invalid. It is not always correct to say that if the word “may” has been used, the statute is only permissive or directory in the sense that non-compliance with those provisions will not render the proceeding invalid [*State of U.P. v. Manbodhan Lal Srivastava*, AIR 1957 SC 912] and that when a statute uses the word “shall”, prima facie, it is mandatory, but the Court may ascertain the real intention of the legislature by carefully attending to the whole scope of the statute [*State of U.P. v. Babu Ram Upadhya*, AIR 1961 SC 751]. The principle of literal construction of the statute alone in all circumstances without examining the context and scheme of the statute may not serve the purpose of the statute [*RBI v. Peerless General Finance & Investment Co. Ltd.*, (1987) 1 SCC 424].”

56. Normally the word ‘may’ implies what is optional and it does not indicate the mandatory direction. It also connate an enabling or permissive power. A well-settled rule of interpretation of the statutes is that the use of the word “shall” in a statute, does not necessarily mean that in every case it is mandatory that unless the words of the statute are literally followed, the proceeding or the outcome of the proceeding, would be invalid. It is also not always correct to say that if the word “may” has been used, the statute is only permissive or directory in the sense that

¹⁹ (2021) 2 SCC 392

non-compliance with those provisions will not render the proceeding invalid. When a statute uses the word “shall”, prima facie, it is mandatory, but the Court may ascertain the real intention of the legislature by carefully attending to the whole scope of the statute. The principle of literal construction of the statute alone in all circumstances without examining the context and scheme of the statute may not serve the purpose of the statute.

(iv) Delegated legislation/conditional legislation:

57. Learned State Counsel submitted that Section 2(1)(i) is a delegated legislation. The legislature has delegated the power to fix the specified value to the Central Government, so, the notification by the Central Government is must to implement the will of the legislature.

58. In ***State of Tamil Nadu v. K. Sabanayagam***²⁰ the distinction between the delegated legislation and conditional legislation was explained, as clear and well settled. The case of ***Hamdard Dawakhana (Wakf) Lal Kuan, Delhi v. Union of India*** was referred. It was held that the distinction between the conditional legislation and delegated legislation is that, in the former the delegate’s power is that of determining when a legislative declared rule of conduct shall become effective and the law involves delegation of rule making power which constitutionally may be exercised by the administrative agent. This means that the legislature

²⁰ (1998) 1 SCC 318

having laid down the broad principles of its policy in the legislation can then leave the details to be supplied by the administrative authority. In other words by delegated legislation the delegate completes the legislation by supplying details within the limits prescribed by the statute and in the case of conditional legislation the power of legislation is exercised by the legislature conditionally leaving the discretion on an external authority, the time and manner of carrying its legislation into effect as also the determination of the area to which it is to extend. In ***Hamdard Dawakhana*** (supra) it was further held that, when the delegate is given the power of making rules and regulations in order to fill in the details to carry out and subserve the purposes of the legislation the manner in which the requirements of the statute are to be met and the rights therein created to be enjoyed, it is an exercise of delegated legislation. But when the legislation is complete in itself and the legislature has itself made the law and the only function left to the delegate is to apply the law to an area or to determine the time and manner of carrying it into effect, it is conditional legislation.

59. In ***K. Sabanayagam*** (supra) Hon'ble Apex Court held as under:

“17.The distinction between delegated legislation and conditional legislation is a clear and well-settled one. In this connection we may usefully refer to a Constitution Bench decision of this Court in the case of *Hamdard Dawakhana (Wakf) v. Union of India* [AIR 1960 SC 554 : (1960) 2 SCR 671] . Kapur, J. speaking for the Constitution Bench has made the following pertinent observations at pp. 695-96 of the Report:

“The distinction between **conditional legislation** and delegated legislation is this that in the former **the delegate's power is that of determining when a legislative declared rule of conduct shall become effective; Hampton & Co. v. U.S.** [276 US 394 : 72 L Ed 624 (1928)] and the latter involves **delegation of rule-making power which constitutionally may be exercised by the administrative agent. This means that the legislature having laid down the broad principles of its policy in the legislation can then leave the details to be supplied by the administrative authority. In other words by delegated legislation the delegate completes the legislation by supplying details within the limits prescribed by the statute and in the case of conditional legislation the power of legislation is exercised by the legislature conditionally leaving to the discretion of an external authority the time and manner of carrying its legislation into effect as also the determination of the area to which it is to extend; (R. v. Burah [(1878) 3 AC 889, PC] ; Russell v. R. [(1882) 7 AC 829 : 51 LJPC 77, PC] , AC at p. 835; King Emperor v. Benoari Lal Sarma [(1944) 72 IA 57 : AIR 1945 PC 48] ; Sardar Inder Singh v. State of Rajasthan [AIR 1957 SC 510 : 1957 SCR 605]). Thus when the delegate is given the power of making rules and regulations in order to fill in the details to carry out and subserve the purposes of the legislation the manner in which the requirements of the statute are to be met and the rights therein created to be enjoyed it is an exercise of delegated legislation. But when the legislation is complete in itself and the legislature has itself made the law and the only function left to the delegate is to apply the law to an area or to determine the time and manner of carrying it into effect, it is conditional legislation.”**

It is thus obvious that in **the case of conditional legislation, the legislation is complete in itself but its operation is made to depend on fulfilment of certain conditions and what is delegated to an outside authority, is the power to determine according to its own judgment whether or not those conditions are fulfilled.** In case of delegated legislation proper, some portion of the legislative power of the legislature is delegated to the outside authority in that, the legislature, though competent to perform both the essential and ancillary legislative functions, performs only the former and parts with the latter, i.e., the ancillary function of laying down details in favour

of another for executing the policy of the statute enacted. The distinction between the two exists in this that whereas conditional legislation contains no element of delegation of legislative power and is, therefore, not open to attack on the ground of excessive delegation, delegated legislation does confer some legislative power on some outside authority and is therefore open to attack on the ground of excessive delegation. In this connection we may also refer to a decision of this Court rendered in the case of *Sardar Inder Singh v. State of Rajasthan* [AIR 1957 SC 510 : 1957 SCR 605] wherein it is laid down that when an appropriate legislature enacts a law and authorises an outside authority to bring it into force in such area or at such time as it may decide, that is conditional and not delegated legislation.”

60. Learned State counsel placed reliance in **A.K.Roy** (supra) to contend that the proposition is that once the power is conferred by the parliament upon the Central Government it is visualized by the parliament that the Central Government would not fail to implement the will of the parliament. The contention is that under Section 2(1)(i) of the Commercial Courts Act the power was conferred to the Central Government to fix the specified value by notification, so it is for the Central Government to do that, which should have been done by the Central Government without fail.

61. In **A.K.Roy** (supra) the Hon'ble Apex Court held as under in para-58:

“58. It is in this background that the Parliament conferred upon the Central Government the power to bring the provisions of the 44th Amendment Act into force. **The Parliament could not have visualised that, without any acceptable reason, the Central Government may fail to implement its constituent will.** We hope that the Central Government will, without further delay, bring Section 3 of the 44th Amendment Act into force. That

section, be it remembered, affords to the detenu an assurance that his case will be considered fairly and objectively by an impartial tribunal.”

62. I am of the view that the expression ‘may’ is used in its ordinary sense as ‘may’ and not as shall or must. It is to the discretion of the Central Government to determine the specified value for any higher value, than three lakhs. So ‘may’ confers the discretion in the Central Government to determine that ‘specified value’ from above three lakhs, as the base value up to an amount of any other higher value. The discretion by the use of word ‘may’ is to that extent and in that regard. The discretion is not that, the notification is not to be issued once the Central Government has decided to increase the base value of specified value to a higher value over and above three lakhs. On such a decision/determination of the specified value, the same is to be notified by the Central Government because that is the mode prescribed for doing the act. So, I am not inclined to take the view that ‘may’ has to be read as ‘must’ or ‘shall’ for issuing notification for the specified value, ‘which shall not be less than three lakhs’ as determined by the legislature.

63. Legislature has provided for the Central Government to decide what should be the specified value, if the base value is not to be three lakhs, but a higher value. The ‘specified value’ is from three lakhs i.e., it starts from three lakhs, without any upper cap and so, it is for the Central Government, if the Central Government decides that the specified value (base amount) should be higher than three lakhs, to specify such higher

value by notification. So for specified value of not less than three lakhs (i.e., three lakhs as base value) that has been fixed by the legislature, no notification is required from the Central Government. That has been specified by the legislature itself. No one except the legislature can change it i.e, below three lakhs. The language of Section 2(1)(i) 'specified value' is clear and unambiguous. It admits of only one interpretation and that is that, in case of higher value to be fixed, as specified value, than three lakhs (base amount) the Central Government will have to issue the notification. 'May' here confers the discretion in the central Government to change the specified value from three lakhs to any higher amount and if that discretion is be exercised by the Central Government then a notification will have to be issued. It cannot be done by any other way by the Central Government. To that extent (for issuance of notification in case the Central Government decides so, for higher value) 'may' would then be not directory but mandatory. "Specified value" can be changed to an higher amount only by notification, such power has been given to the Central Government by the statute itself.

64. The contention of the respondents' counsel on the delegated legislation, and conditional legislation and a duty cast on the Central Government to implement the Will of the parliament, based on the judgments in **A.K.Roy** (supra) and **K.Sabanayagam** (supra), on principle of law cannot be disputed. But, on the applicability of the tests of

conditional legislation and delegated legislation, Section 2(1)(i) cannot be said to be a delegated legislation or a conditional legislation in its entirety. Here, the legislation is complete in itself. The specified value has been defined 'not less than three lakhs' i.e., from three lakhs. An alternative specified value by use of 'or' has also been provided i.e., 'higher value. The legislature has then delegated the power to the Central Government to fix such higher value as the specified value (base value). Discretion has also been given to the Central Government to determine any higher value by use of the word 'such' in the expression 'such higher value' and the legislature has also prescribed the mode of doing it i.e., by notification. If the Central Government has not decided to go for the Higher value, for which there is no mandatory direction, but discretion conferred by the statute, the specified value from three lakhs as fixed by the legislature stands. That is subject to change by Central Government but it is not mandatory on the Central Government to change it. So, the legislative intent and the legislation is clear as to under what circumstances the Central Government is required to issue notification and any such notification not having being issued, the 'specified value' 'not below three lakhs', or from 'three lakhs' is statutorily fixed by the legislature.

65. I am therefore of the view that the notification by the Central Government under Section 2 (1) (i) of the Act 2015 is not required for the

specified value not less than Rs.3 lakh, but it shall be required for a higher value than starting from Rs.3 lakh, if the Central Government so decides. In the absence of any notification by the Central Government, the specified value shall start from Rs.3 lakh without any upper cap.

III.B - Consideration on Question No. 'B'

66. The question 'B' in substance is, that the substituted specified value in Section 2(1)(i) of the Act, 2015 shall be operative and effective from the date of amendment (03.05.2018) or the date of notification by the Central Government or the date of notification by the State Government.

67. In answer to Question 'A', it has been held that the notification by the Central Government is not necessary for the specified value from three lakhs. So, in this part - I would consider the necessity of any notification by the State Government under Section 3(1A) of the Act, 2015 and its impact or no impact, on the specified value for it being operative and effective from what date.

(i) Meaning of 'pecuniary value' in Section 3 (1A):

68. Section 3 provides for the "Constitution of Commercial Courts". The State Government may after consultation with the concerned High Court by notification, constitute such number of Commercial Courts at District level, as it may deem necessary for the purpose of exercising the jurisdiction and powers conferred on those Courts under the Act. The first

proviso and the second proviso relate to the High Courts having ordinary original civil jurisdiction. The High Court of Andhra Pradesh is not the High Court 'having ordinary original civil jurisdiction'.

69. Sub-Section (1A) of Section 3, provides that notwithstanding anything contained in the Act, the State Government may, after consultation with the concerned High Court, by notification, specify such pecuniary value which shall not be less than three lakh rupees or such higher value, for whole or part of the State, as it may consider necessary.

Sub-Section (2), provides for the State Government after consultation with the concerned High Court by notification to specify the local limits of the area to which the jurisdiction of a Commercial Court shall extend, which may from time to time be increased, decreased or altered. Sub-Section (3), deals with the appointment of one or more persons as Judge or Judges of the Commercial Courts either at the level of District Judge or a Court below the level of District Judge.

70. Section 3 (unamended) (i.e., prior to Act 28 of 2018) provided for the constitution of such number of Commercial Courts, as the State Government may deem necessary at District Level by notification after consultation with the High Court. The proviso provided that no Commercial Court shall be constituted for the territory over which the High Court had ordinary original civil Jurisdiction. Sub-Section (2) provided for specifying the local limits of the area to which the jurisdiction

of a commercial court shall extend by notification after consultation with the concerned High Court. Local area was subject to increase, decrease or alternation of limits. Sub-Section (3) provided for appointment of Judge or Judges of a Commercial Court from amongst the cadre of Higher Judicial Services under the concurrence of the Chief Justice. It was only the Constitution, and the territorial jurisdiction of the Commercial Court that was to be specified. There was no specific provision, like present Sub-section (1A), providing for the State Government to specify the 'pecuniary value' of such constituted Commercial Courts either for the whole or part of the State. Now, sub-Section (1A) has also been inserted specifically for the pecuniary value. Another change has been made that now even for the territory over which the High Court has an ordinary original civil jurisdiction, Commercial Court is to be constituted.

71. There was no independent provision to provide for the 'pecuniary value' as in Sub-Section (1A). It was only the 'specified value'. 'Specified value' was defined under Section 2 (1) (i) of the Act, 2015.

72. The point then is whether the 'specified value' and 'pecuniary value' are the same or different expressions. For both the expressions the words "which shall not be less than three lakh rupees or such higher value", have been used. If both the expressions are different then what is the meaning of 'pecuniary value'. This expression has not been defined in the Commercial Court Act 2015. Section 2 (2) of the Commercial Court

Act provides that “*The words and expressions used and not defined in the Act, but defined in the Code of Civil Procedure 1908, and the Indian Evidence Act 1812, shall have the same meaning respectively assigned to them in the Code and the Act*”. The Code of Civil Procedure (C.P.C), also does not define the expression ‘pecuniary value’. However Section 6 CPC deals with the ‘pecuniary jurisdiction’ and throws light. It reads that “Save in so far as is otherwise expressly provided, nothing herein contained shall operate to give any Court jurisdiction over suits the amount or value of the subject-matter of which exceeds the pecuniary limits (if any) of its ordinary jurisdiction.” Section 21 (2) CPC also provides, *inter alia*, about the competence of a Court with reference to the ‘pecuniary limits of its jurisdiction’ and the objection in that regard to be raised at the Court of first instance.

73. Sub-Section (1A) falls in Section 3. Section 3 provides for the constitution of Commercial Courts. Sub-Section (1) for constitution, Sub-Section (2) for local limits of area i.e., territorial jurisdiction and Sub-Section (3) for appointment of Judge or Judges to both kinds of Commercial Courts either at the Level of District Judge or below the level of District Judge. So, placing Sub-Section (1A) in Section 3 and using the expression ‘pecuniary value’ an expression different from ‘specified value’ (which has been defined), in my view shows the clear intention of the legislature that the ‘pecuniary value’ refers to the ‘pecuniary jurisdiction of

the commercial court' at different levels. This view that pecuniary value refers to pecuniary jurisdiction also gets support from the 2nd proviso to Section 3(1), which also uses the expression 'pecuniary value' referring to the 'pecuniary jurisdiction' of the District Judge. So, pecuniary value is different from the 'specified value' which is in relation to the value of the subject matter of the suit of commercial dispute, which in order to be covered by the Commercial Court Act shall not be less than three lakhs. The pecuniary value relates to the pecuniary jurisdiction of the commercial court. The commercial court having a particular pecuniary jurisdiction, shall entertain the suit / application / execution petition of that part of the 'specified value', which falls with its pecuniary jurisdiction limits, in different territorial jurisdictions. In ***Nandita Bose (smt.) v. Ratanlal Nahata***²¹, the Hon'ble Apex Court held that "the principles which regularize the pecuniary jurisdiction of a civil Courts are well settled. Ordinarily, the valuation of a suit depends upon the relief claimed therein and the plaintiff's **valuation** in his plaint **determines the Court in which it can be presented.**"

74. The pecuniary value or pecuniary jurisdiction of a Commercial Court may be at par the 'specified value' in one Commercial Court or in different commercial courts in different territorial jurisdictions or it may be fixed for more than one Commercial Court in the same territorial jurisdiction at different levels/slabs of the 'specified value'. The object

²¹ (1987) 3 SCC 705

being speedy disposal, at different levels with different pecuniary jurisdiction the commercial court more than one, for whole or part of the State may be constituted. To explain further, 'Specified value' now starts from Rs.3 lakh. There is no upper limit. So, the commercial dispute of 'specified value' (for illustration) from Rs.3 lakhs to Rs.50 lakh may be made the 'pecuniary value' of one commercial court jurisdiction and for the amount above that, the 'pecuniary value' may be fixed for another commercial court, so as to cover different slabs of the specified value, in many Commercial Courts to be established for expeditious disposal of high value commercial dispute as also low value commercial dispute which is the object of the Act and to achieve the same.

75. If the dispute is a commercial dispute within the meaning of Section 2 (1) (c) of the Act 2015, which defines 'commercial dispute' and is of the specified value, for example, the specified value being rupees ten lakh, the question would be as to in which commercial court the suit/application/execution petition is to be filed and the answer would be in the Commercial Court constituted having the pecuniary jurisdiction to cover the specified value of rupees ten lakhs and having the territorial jurisdiction. The pecuniary value/jurisdiction, is therefore to be notified under Section 3 (1A) by the State Government. In the absence of any such fixation or specification of pecuniary value, the commercial dispute cannot be instituted in any particular commercial court. Even those

already constituted Commercial Courts at Visakhapatnam & Krishna (Vijayawada) will not be competent to entertain the commercial disputes of a specified value below one crore. Those two commercial courts were established for the area specified and for the specified value then existing not below one crore, in the cadre of District & Sessions Judges.

76. At this stage it would be apt to refer about the G.O(s) on constitution of the commercial Courts in the State of Andhra Pradesh. Vide G.O.Ms.No.74 dated 10.06.2016, the Courts of all the Principal District & Sessions Judges were notified as Commercial Courts in their respective districts for trial and disposal of commercial disputes. Thereafter vide G.O.Ms.No.27 dated 01.03.2017, two special Courts, in the cadre of District & Sessions Judge, one each at Visakhapatnam and Vijayawada, Krishna District were established for the respective Districts and vide G.O.Rt.No.251 dated 03.04.2018 the territorial jurisdiction was only over the limits of Municipal Corporation areas of Visakhapatnam and Vijayawada. Thereafter, vide G.O.Ms.No.78 dated 16.05.2019 the Special Commercial Court at Visakhapatnam was reassigned the territorial jurisdiction over the entire Revenue Districts of Srikakulam, Vizianagaram, Visakhapatnam and East Godavari areas. The Special Commercial Court at Vijayawada was reassigned the territorial jurisdiction over the entire revenue districts of West Godavari, Krishna, Guntur, Prakasham, SPSR Nellore, Chittoor, YSR Kadapa, and Anantapuram.

77. The aforesaid G.O(s) were issued constituting new Commercial courts for trial and disposal of the commercial disputes for the territorial jurisdiction assigned and reassigned. That was as per the specified value at that time i.e., not below one crore. So, the pecuniary jurisdiction of those two commercial courts under those GO(s) necessarily meant from One Crore and not below one Crore.

78. No notification has till date been issued by the State Government under the provisions of Sub-Section (1A) of Section 3 of the Act 2015.

79. So, now in view of the reduction of the amount of 'specified value'(not below Rs.3 lakh, from not below Rs.1 crore), unless the commercial courts are constituted with the pecuniary value from rupees three lakh upto less than rupees one crore, by notification in terms of amended Section 3 (1A), the commercial disputes of the part of the specified value from Rs.3 lakh upto below Rs.1 crore, cannot be instituted in any commercial court firstly, for want of establishment of Commercial Court for such part of the specified value and secondly, the existing two commercial courts at Visakhapatnam and Krishna (Vijayawada), do not have the pecuniary value/jurisdiction for that part of the specified value i.e., below Rs.1 crore. They were constituted for the specified value starting from Rs.1 crore.

(ii) No automatic conferment of pecuniary value/jurisdiction:

80. Change in 'specified value' by amendment, in my view would not automatically confer such pecuniary jurisdiction (i.e., below Rs.1 crore), as well, on the existing commercial courts unless it is so conferred by the State Government by notification under Section 3 (1A).

(iii) Thing must be done in the manner prescribed:

81. It is settled principle of law that where power is given to do a certain thing in a certain manner, the thing must be done in that way. In ***Dhanajaya Reddy v. State of Karnatana***²² the said principle was reiterated referring to the case of ***Nazir Ahmad v. King Emperor*** {AIR 1936 PC 253 (2)}, ***Taylor v. Taylor*** {(1876) 1 Ch D 426} and ***State of U.P. v. Singhara Singh*** {AIR 1964 SC 358}. It is apt to refer paragraphs 23 to 26 of ***Dhanajaya Reddy*** (supra) as under:

“23. It is a settled principle of law that where a power is given to do a certain thing in a certain manner, the thing must be done in that way or not at all. This Court in *State of U.P. v. Singhara Singh* [AIR 1964 SC 358 : (1964) 1 Cri LJ 263 (2)] : (AIR p. 361, para 8) held

“A Magistrate, therefore, cannot in the course of investigation record a confession except in the manner laid down in Section 164. The power to record the confession had obviously been given so that the confession might be proved by the record of it made in the manner laid down.”

24. Looking to the facts of the case we are at pains to note that Shambulingappa (PW 50) failed in the performance of his statutory obligations which has resulted in excluding the otherwise voluntary confessional statement Exhibit P-77 made by A-4. Had the said Magistrate taken due care and applied his mind by referring to the bare provisions of Section 164 of the Code, such a glaring illegality in recording the confessional statement would have been avoided. In view of this finding, no reliance

²² (2001) 4 SCC 9

can be placed upon the judicial confession Exhibit P-77, allegedly made by A-4, particularly against A-1.

25. We examined the matter from a different angle as well by considering to see the admissibility of the said confessional statement not as a judicial confession but as extrajudicial confession made to PW 50. We found it difficult to treat Exhibit P-77 as extrajudicial confession of A-4 made to PW 50. Confessions in criminal law have been categorised to be either judicial or extrajudicial. The prosecution is obliged to refer and rely on the alleged confession of the accused in any one of the aforesaid categories. As extrajudicial confession cannot be treated as judicial confession, similarly an alleged judicial confession proved to have not been legally recorded cannot be used as extrajudicial confession. Otherwise also such an approach would result in dragging the judicial officers into uncalled-for and unnecessary controversies. In *Nazir Ahmad v. King Emperor* [AIR 1936 PC 253 (2) : 37 Cri LJ 897] it was observed, which we approve, that: (AIR p. 258)

“[I]t would be particularly unfortunate if Magistrates were asked at all generally to act rather as police officers than as judicial persons; to be by reason of their position freed from the disability that attaches to police officers under Section 162 of the Code; and to be at the same time freed, notwithstanding their position as Magistrates, from any obligation to make records under Section 164. In the result they would indeed be relegated to the position of ordinary citizens as witnesses and then would be required to depose to matters transacted by them in their official capacity unregulated by any statutory rules of procedure or conduct whatever.”

26. Relying upon *Nazir Ahmad case* [AIR 1936 PC 253 (2) : 37 Cri LJ 897] and applying the principles laid down in *Taylor v. Taylor* [(1876) 1 Ch D 426] this Court in *Singhara Singh case* [AIR 1964 SC 358 : (1964) 1 Cri LJ 263 (2)] held: (AIR p. 361, para 8)

“8. The rule adopted in *Taylor v. Taylor* [(1876) 1 Ch D 426] is well recognised and is founded on sound principle. Its result is that if a statute has conferred a power to do an act and has laid down the method in which that power has to be exercised, it necessarily prohibits the doing of the act in any other manner than that which has been prescribed. The principle behind the rule is that if this were not so, the statutory provision might as well not have been enacted. A Magistrate, therefore, cannot in the course of investigation record a confession except in the manner laid down in Section 164. The power to record the confession had obviously been given so that the confession might be proved by the record of it made in the manner laid down. If proof of the confession by other means was permissible, the whole provision of Section 164 including the safeguards contained in it for the protection of accused persons would be rendered nugatory. The section, therefore, by conferring on Magistrates the power to

record statements or confessions, by necessary implication, prohibited a Magistrate from giving oral evidence of the statements or confessions made to him.”

82. In view of the specific provision under Section 3 (1A), the power has been given to the State Government to specify the pecuniary value by notification and in consultation with the High Court. So, for such pecuniary value, the notification shall be required to be issued in the manner prescribed. There cannot be an automatic conferment of pecuniary value for the part of the new ‘specified value’ from Rs.3 lakh to less than Rs.1 crore, on the already constituted two special commercial courts, once a statutory provision (1A) has been made for doing that in a particular manner by a particular mode.

83. Section 2 (1) (i) has been amended by the same Amendment Act 28 of 2018 by which Sub-section (1A) has been inserted in Section 3. So, Section 2 (1) (i), the specified value not below Rs.3 lakh i.e., from Rs.3 lakh, by reducing the earlier specified value i.e., from Rs.1 crore, has to be read along with Section 3 (1A) to achieve the object of the Act as per the statement of object and reasons, which are *inter alia*,

- (i) to expedite disposal of commercial dispute even of lower value,
- (ii) to enable the parties in different parts of the State to approach the Court of the lowest level, and
- (iii) to enable the State Governments to specify the pecuniary value not below three lakhs or such higher value.

So, unless the State exercises that power under Section 3(1A), the very object of bringing down the specified value from Rs.1 crore to an amount of not less than Rs.3 lakh, will not be achieved. The object is speedy resolution of the commercial disputes even of the new specified value starting from Rs.3 lakhs.

(iv) STATEMENT OF OBJECTS AND REASONS – IMPORTANCE IN INTERPRETATION:

84. The Statement of objects and reasons play a pivotal role to get the object of the enactment and keeping in view the same provision can be interpreted to give effect to the legislative intent.

85. In ***State of Tamilnadu v. K.Shyam Sunder***²³, the Hon'ble Apex Court held that the statement of objects and reasons appended to the bill while interpreting the statutory provisions can be looked into for appreciating the true intent of the legislature or to find out the object sought to be achieved by enactment of the particular Act or even for judging the reasonableness of the classifications made by the Act. Para Nos.66 to 68 in ***K. Shyam Sunder*** (supra) reads as under:

“XI. Reading of the Statement of Objects and Reasons : While interpreting the statutory provisions

66. The Statement of Objects and Reasons appended to the Bill is not admissible as an aid to the construction of the Act to be passed, but it can be used for limited purpose of ascertaining the conditions which prevailed at that time which necessitated the making of the law, and the extent and urgency of the evil, which it sought to remedy. **The Statement of Objects and Reasons**

²³ (2011) 8 SCC 737

may be relevant to find out what is the **objective of any given statute passed by the legislature. It may provide for the reasons which induced the legislature to enact the statute.** “For the purpose of *deciphering the object and purport* of the Act, ... the court can look to the Statement of Objects and Reasons thereof.” (emphasis supplied) (Vide *Kavalappara Kottarathil Kochuni v. States of Madras and Kerala* [AIR 1960 SC 1080] and *Tata Power Co. Ltd. v. Reliance Energy Ltd.* [(2009) 16 SCC 659] , SCC p. 686, para 79)

67. In *A. Manjula Bhashini* [(2009) 8 SCC 431 : (2009) 2 SCC (L&S) 441] this Court held as under : (SCC p. 459, para 40)

“40. The proposition which can be culled out from the aforementioned judgments is that although the Statement of Objects and Reasons contained in the Bill leading to enactment of the particular Act cannot be made the sole basis for construing the provisions contained therein, the same can be referred to for understanding the background, the antecedent state of affairs and the mischief sought to be remedied by the statute. The Statement of Objects and Reasons can also be looked into as an external aid **for appreciating the true intent of the legislature and/or the object sought to be achieved by enactment of the particular Act** or for judging reasonableness of the classification made by such Act.”

(emphasis added)

68. Thus, in view of the above, the **Statement of Objects and Reasons of any enactment spells out the core reason for which the enactment is brought and it can be looked into for appreciating the true intent of the legislature or to find out the object sought to be achieved by enactment of the particular Act** or even for judging the reasonableness of the classifications made by such Act.”

86. In *A. Manjula Bhashini v. Managing Director* ²⁴the Hon’ble Apex

Court held that:

²⁴ (2009) 8 SCC 431

“33. Although in *Aswini Kumar Ghose v. Arabinda Bose* [(1952) 2 SCC 237 : AIR 1952 SC 369] it was held that the Statement of Objects and Reasons contained in the Bill cannot be used or relied upon for the purpose of construction of the statute, this rule has not been strictly followed in the subsequent judgments. In *A. Thangal Kunju Musaliar v. M. Venkatachalam Potti* [AIR 1956 SC 246] the Statement of Objects and Reasons was used for judging reasonableness of the classification made in an enactment to see if it infringed or was contrary to the Constitution. In *Central Bank of India v. Workmen* [AIR 1960 SC 12] it was held that the Statement of Objects and Reasons can be used for the limited purpose of understanding the background and antecedent state of affairs leading up to the legislation.

34. The same view was reiterated in a large number of other judgments including *Bhaiji v. SDO* [(2003) 1 SCC 692] in which the Court referred to *Principles of Statutory Interpretation* by Justice G.P. Singh, 8th Edn., 2001 and observed: (SCC p. 700, para 11)

“11. Reference to the Statement of Objects and Reasons is permissible for understanding the background, the antecedent state of affairs, the surrounding circumstances in relation to the statute, and the evil which the statute sought to remedy. The weight of judicial authority leans in favour of the view that the Statement of Objects and Reasons cannot be utilised for the purpose of restricting and controlling the plain meaning of the language employed by the legislature in drafting a statute and excluding from its operation such transactions which it plainly covers.”

35. In *B. Banerjee v. Anita Pan* [(1975) 1 SCC 166] this Court approved the view expressed by the Calcutta High Court that the Statement of Objects and Reasons contained in the West Bengal Premises Tenancy (Second Amendment) Bill, 1969 and proceedings of the legislature including the speech made by the Minister at the time of introducing the Bill could be looked into for understanding the true character of the amendment and observed: (SCC p. 173, para 8)

“8. The explosive import of neglecting such a distressing urban development reasonably obliges the State to impose drastic restrictions on landlords' right to property. And when circumvention of wholesome legal inhibitions is practised on a large scale the new challenge is met by clothing the law with

more effective armour and that is the rationale of the Amendment Act. The learned Judges rightly refer to the legislative proceedings, notorious common knowledge and other relevant factors properly brought to their ken. The 'sound-proof theory' of ignoring voices from Parliamentary debates, once sanctified by British tradition, has been replaced by the more legally realistic and socially responsible canon of listening to the legislative authors when their artefact is being interpreted."

36. In *K.P. Varghese v. ITO* [(1981) 4 SCC 173 : 1981 SCC (Tax) 293] this Court while rejecting the argument of the Revenue that rule of strict construction should be applied for interpreting Section 52(2), referred to the Statement of Objects and Reasons contained in the Bill presented before Parliament, speech made by the Finance Minister and observed: (SCC p. 184, para 8)

"8. ... Now it is true that the speeches made by the Members of the Legislature on the floor of the House when a Bill for enacting a statutory provision is being debated are inadmissible for the purpose of interpreting the statutory provision but the speech made by the Mover of the Bill explaining the reason for the introduction of the Bill can certainly be referred to for the purpose of ascertaining the mischief sought to be remedied by the legislation and the object and purpose for which the legislation is enacted. This is in accord with the recent trend in juristic thought not only in western countries but also in India that interpretation of a statute being an exercise in the ascertainment of meaning, everything which is logically relevant should be admissible."

37. In *Chern Taong Shang v. Commander S.D. Baijal* [(1988) 1 SCC 507 : 1988 SCC (Cri) 162] the Court referred to the object sought to be achieved by enacting the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981 i.e. preventing the illegal poaching of fishes by foreign vessels including foreign vessels chartered by Indian parties by providing deterrent punishment to protect Indian fishermen and observed: (SCC p. 516, para 26)

"26. It is pertinent to mention that in interpreting a statute the court has to ascertain the will and policy of the legislature as discernible from the object and scheme of the enactment and the language used therein. Viewed in this

context it is apparent that the said Act has been made with the sole purpose of preventing poaching of fishes by foreign vessels chartered by Indian citizens within the exclusive economic zone of India as specified in Rule 8(1)(q) of the Maritime Zone of India Rules as amended in 1982 as well as in breach of the provisions of the said Act and the terms and conditions of permit issued under Section 5 of the said Act.”

38. In *Utkal Contractors and Joinery (P) Ltd. v. State of Orissa* [(1987) 3 SCC 279] the Court interpreted the provisions of the Orissa Forest Produce (Control of Trade) Act, 1981 and observed: (SCC pp. 288-89, para 9)

“9. ... **A statute is best understood if we know the reason for it. The reason for a statute is the safest guide to its interpretation.** The words of a statute take their colour from the reason for it. How do we discover the reason for a statute? There are external and internal aids. **The external aids are Statement of Objects and Reasons** when the Bill is presented to Parliament, the reports of committees which preceded the Bill and the reports of Parliamentary Committees. Occasional excursions into the debates of Parliament are permitted. Internal aids are the Preamble, the scheme and the provisions of the Act. Having discovered the reason for the statute and so having set the sail to the wind, the interpreter may proceed ahead. No provision in the statute and no word of the statute may be construed in isolation. Every provision and every word must be looked at generally before any provision or word is attempted to be construed. The setting and the pattern are important. It is again important to remember that Parliament does not waste its breath unnecessarily. Just as Parliament is not expected to use unnecessary expressions, Parliament is also not expected to express itself unnecessarily. Even as Parliament does not use any word without meaning something, Parliament does not legislate where no legislation is called for. Parliament cannot be assumed to legislate for the sake of legislation; nor can it be assumed to make pointless legislation. Parliament does not indulge in legislation merely to state what it is unnecessary to state or to do what is already validly done. Parliament may not be assumed to legislate unnecessarily.”

39. In *Gurudevdatla VKSSS Maryadit v. State of Maharashtra* [(2001) 4 SCC 534] a three-Judge Bench of this Court interpreted the provisions of the

Maharashtra Cooperative Societies Act, 1960, the Maharashtra Cooperative Societies (Second Amendment) Ordinance, 2001 and observed: (SCC pp. 549-50, paras 19 & 21)

“19. Further, after introduction of the Bill and during the debates thereon before Parliament, if a particular provision is inserted by reason of such a debate, question of indication of any object in the Statement of Objects and Reasons of the Bill does not and cannot arise. **The Statement of Objects and Reasons needs to be looked into, though not by itself a necessary aid, as an aid to construction only if necessary.** To assess the intent of the legislature in the event of there being any confusion, Statement of Objects and Reasons may be looked into and no exception can be taken thereto — this is not an indispensable requirement but when faced with an imperative need to appreciate the proper intent of the legislature, statement may be looked into but not otherwise. ...

21. While the Statement of Objects and Reasons in the normal course of events cannot be termed to be the main or principal aid to construction but in the event it is required to discern the reasonableness of the classification as in *Shashikant Laxman Kale v. Union of India* [(1990) 4 SCC 366 : 1990 SCC (Tax) 428] Statement of Objects and Reasons can be usefully looked into for appreciating the background of the legislature's classification.”

40. The proposition which can be culled out from the aforementioned judgments is that **although the Statement of Objects and Reasons contained in the Bill leading to enactment of the particular Act cannot be made the sole basis for construing the provisions contained therein, the same can be referred to for understanding the background, the antecedent state of affairs and the mischief sought to be remedied by the statute. The Statement of Objects and Reasons can also be looked into as an external aid for appreciating the true intent of the legislature and/or the object sought to be achieved by enactment of the particular Act or for judging reasonableness of the classification made by such Act.**”

87. In *Jaycee Housing (P) Ltd. v. High Court of Orissa*²⁵ the Hon'ble Apex Court after considering the statement of objects and reasons of the Act 2015, held that to achieve the said objective the legislature in its wisdom inserted Section 3 (1A) & 3A vide amendment in the year 2018 enabling the State Government to designate such number of Commercial Appellate Courts at District Level to exercise appellate jurisdiction over the Commercial Courts below the District Judge level.

88. Paragraphs 22 to 24 of *Jaycee Housing (P) Ltd.* (supra) read as under:

“22. That thereafter, the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 was passed by Parliament, which has been subsequently renamed as the Commercial Courts Act, 2015. The Statement of Objects and Reasons of the said Act, inter alia, provides as under:

“The proposal to provide for speedy disposal of high value commercial disputes has been under consideration of the Government for quite some time. The high value commercial disputes involve complex facts and question of law. Therefore, there is a need to provide for an independent mechanism for their early resolution. Early resolution of commercial disputes shall create a positive image to the investor world about the independent and responsive Indian legal system.”

23. That thereafter the Commercial Courts Act, 2015 has been amended in the year 2018 which has come into force with effect from 3-5-2018, by which Sections 3(1-A) & 3-A have been inserted enabling the State Governments to designate such number of Commercial Appellate Courts at District level to exercise appellate jurisdiction over the Commercial Courts below the District Judge level. Thus, a Commercial Court can be set up under Section 3 of the 2015 Act and a Commercial Appellate Court can be set up under Section 3-A of the 2015 Act.

24. Thus, the Objects and Reasons of the Commercial Courts Act, 2015 is to provide for speedy disposal of the commercial disputes which includes the arbitration proceedings. To achieve the said Objects, the legislature in its wisdom has specifically conferred the jurisdiction in respect of arbitration matters as per Section 10 of the 2015 Act. At this stage, it is required to be noted that the 2015 Act is the Act later in time and

²⁵ (2023) 1 SCC 549

therefore when the 2015 Act has been enacted, more particularly Sections 3 & 10, there was already a provision contained in Section 2(1)(e) of the 1996 Act. As per settled position of law, it is to be presumed that while enacting the subsequent law, the legislature is conscious of the provisions of the Act prior in time and therefore the later Act shall prevail.”

89. In ***Jaycee Housing (P) Ltd.*** (supra), the Hon’ble Apex Court further held that *“as per the settled law, it is to be presumed that while enacting the subsequent law, the legislature was conscious of the provisions of the Act prior in time and therefore the later Act shall prevail”*.

90. Here it can be said that the legislature was conscious about the previous specified value as also the constitution of Commercial Court for that specified value, and so while reducing the specified value by making amendment also added sub-Section (1A) in Section 3, enabling the State Government to constitute the Commercial Court at the District Judge level and also below the level of the District Judge as also to specify the pecuniary value of such Commercial Courts.

(v) Interpretation of the expression ‘notwithstanding anything Contained in this Act’ in Section 3 (1A)

91. The legislature, therefore, used the expression ‘not withstanding anything contained in this Act’ so as to make it evident that sub-Section (1A) prevails over any other Section of the Act viz., Section 2(1)(i) as amended, and it shall be operative on issuance of the notification in terms of Section 3(1A) by the State Government fixing pecuniary value of the Commercial Court.

92. Section 3 (1A) start with “notwithstanding anything contained in this Act”. It is a *non abstanti clause*. In ***Mohd Abdul Samad v. State of Telangana***²⁶ it was held that a *non obstante clause* is usually appended to a section in the beginning with a view to give the enacting part of the section, in case of a conflict, an overriding effect over the provision or the Act mentioned in the non obstante clause. The Hon’ble Apex Court further held that the expression ‘notwithstanding anything contained in this Act’ has to be construed to take away the effect of any provision in that particular Act in which the section occurs. Paragraphs 82 to 86 of ***Mohd.Abdul Samad*** (supra) read as under:

“82. A non obstante clause is usually appended to a section in the beginning with a view to give the enacting part of the section, in case of a conflict, an overriding effect over the provision or the Act mentioned in the non obstante clause. In other words, in spite of the provision or the Act mentioned in the non obstante clause, the enactment following it will have its full operation or that the provisions embraced in the non obstante clause will not be an impediment for the operation of the enactment. Thus, a non obstante clause is a legislative device used by a Parliament or legislature sometimes to give an overriding effect to what has been specified in the enacting part of a section in case of a conflict with what is contained in the non obstante clause as stated above.

83. Further, a non obstante clause has to be distinguished from the expression “*subject to*” where the latter would convey the idea of a provision yielding place to another provision or other provisions to which it is made subject to. Also, the expression “*notwithstanding anything in any other law*” in a section of an Act has to be contrasted with the use of the expression “*notwithstanding anything contained in this Act*”, which has to be construed to take away the effect of any provision of that particular Act in which the section occurs but it cannot take away the effect of any other law. [Source : *Principles of Statutory Interpretation* by Justice G.P. Singh, 15th Edn., Chapter 5.4, p. 284.]

²⁶ (2025) 2 SCC 49

84. Recently, a seven-Judge Bench of this Court in *Interplay Between Arbitration Agreements under Arbitration & Conciliation Act, 1996 & Stamp Act, 1899, In re* [*Interplay Between Arbitration Agreements under Arbitration & Conciliation Act, 1996 & Stamp Act, 1899, In re*, (2024) 6 SCC 1], in para 83 of the said judgment considered the implication of a non obstante clause in a provision with reference to *Chandavarkar Sita Ratna Rao v. Ashalata S. Guram* [*Chandavarkar Sita Ratna Rao v. Ashalata S. Guram*, (1986) 4 SCC 447], wherein it was observed as under : (*Interplay Between Arbitration Agreements under Arbitration & Conciliation Act, 1996 & Stamp Act, 1899, In re case* [*Interplay Between Arbitration Agreements under Arbitration & Conciliation Act, 1996 & Stamp Act, 1899, In re*, (2024) 6 SCC 1], SCC p. 61, para 83)

“83. ‘67. A clause beginning with the expression ‘notwithstanding anything contained in this Act or in some particular provision in the Act or in some particular Act or in any law for the time being in force, or in any contract’ is more often than not appended to a section in the beginning with a view to give the enacting part of the section in case of conflict an overriding effect over the provision of the Act or the contract mentioned in the non obstante clause. It is equivalent to saying that in spite of the provision of the Act or any other Act mentioned in the non obstante clause or any contract or document mentioned the enactment following it will have its full operation or that the provisions embraced in the non obstante clause would not be an impediment for an operation of the enactment.’ [As observed in *Chandavarkar Sita Ratna Rao v. Ashalata S. Guram*, (1986) 4 SCC 447, at pp. 477-78, para 67.]”

It was further observed in reference to *ICICI Bank Ltd. v. SIDCO Leathers Ltd.* [*ICICI Bank Ltd. v. SIDCO Leathers Ltd.*, (2006) 10 SCC 452 : (2006) 131 Comp Cas 451], that even if a non obstante clause has wide amplitude, the extent of its impact has to be measured in view of the legislative intention and legislative policy.

85. Further, the utility of non obstante clause is where there is a conflict between what is stated in a provision and any other law for the time being in force, or anything else contained in the said enactment. As already noted, only in the case of a conflict, the object is to give the enacting or operative portion of the section an overriding effect, not otherwise. In other words, only in a case of a conflict, a provision in an enactment containing a non obstante clause, would be given its full operation and what is stated in the non obstante clause will not be an impediment for the operation of the particular provision in the enactment. This would mean that what is stated in the non obstante clause would not take away the effect of any provision of the Act which follows the same.

86. In *Aswini Kumar Ghose v. Arabinda Bose* [*Aswini Kumar Ghose v. Arabinda Bose*, (1952) 2 SCC 237 : AIR 1952 SC 369], this Court speaking through Patanjali Sastri, C.J. observed that only when there is any inconsistency between what is

contained in a provision of an enactment and a non obstante clause would make the latter in what is to yield to what is stated in the provision following the same. In other words, it is only when the enacting part of the statute cannot be read harmoniously with what is stated in the non obstante clause, would the non obstante clause result in yielding to what is stated in the enacting part. Similarly, in *Municipal Corpn., Indore v. Ratnaprabha* [*Municipal Corpn., Indore v. Ratnaprabha*, (1976) 4 SCC 622 : AIR 1977 SC 308] , it was observed that there should be a clear inconsistency between a special enactment or rules and a general enactment.”

93. I am of the view that Sub-section (1A) of Section 3, for issuing notification for pecuniary value cannot be read in harmony in Section 2 (1) (i) for the part of the specified value from Rs.3 lakh upto less than Rs.1 crore if it is given effect to with effect from 03.05.2018 and would be not effective in the absence of the notification under Section 3 (1A). The expression ‘notwithstanding anything contained in this Act’ as used in Sub-Section (1A) of Section 3 takes away the implementation of the provision of Section 2 (1) (i) of the Act 2015, to the extent of not less than Rs.3 lakh i.e., from Rs.3 lakh to less than Rs.1 crore, till the notification is issued by the State Government. The *non obstante clause* in Section 3 (1A) is to be given full effect till a notification is issued by the State Government in terms of Sub-Section (1A) of Section 3.

(vi) Position of the Commercial Courts in Andhra Pradesh:

94. In this State of Andhra Pradesh there are only two Commercial Courts, established vide G.O.Ms.No.27 Home (Courts-A) Department, dated 01.03.2017, one is at District Visakhapatnam, and the other is at District Krishna (at Vijayawada). If it be taken that in view of the

amendment in Section 2 (1) (i), all the commercial disputes of the 'specified value from Rs.3 lakh and upwards shall be cognizable by these two Courts as per their territorial limits, then all the commercial dispute cases pending in the regular Courts starting from the valuation of Rs.3 lakh up to the valuation of less than Rs.1 crore (Rs.99,99,999/-) instituted after the date of commencement of the Amendment Act 28 of 2018 (dated 03.05.2018) shall have to be transferred from the entire State to these two Courts. This will also include;

- i)** the execution petitions, arising out of fresh cases of commercial disputes, instituted on or after 03.05.2018;
- ii)** the execution petitions arising out of the cases of specified value (i.e., from three lakhs up to less than one Crore), instituted prior to 03.05.2018 but decided after 03.05.2018 and
- iii)** even those EP(s) in the case decided prior to 03.05.2018 but the execution petition being filed on or after 03.05.2018.
- iv)** The aforesaid would be in addition to the institution of fresh cases of the specified value from Rs.1 crore and upwards including the Execution Petitions in those two Commercial Courts.

That would certainly overburden these two Commercial Court. Then the object of the Amendment 2018 will not be achieved but would be defeated. The object of the Principal Act 2015, as well, which is early

resolution of the commercial disputes of high value, would also not be achieved. If the Commercial Courts are not constituted or conferred the pecuniary value/jurisdiction, as per new 'specified value' at least from rupees three lakhs upto less than one crore, the object of the Act shall not be fulfilled. So giving effect to the specified value from the date of the amendment (03.05.2018) and not from the date of issuance of the state notification under Section 3(1A), would neither be practical nor preferable and would result in unworkable scenario.

(vii) INTERPRETATION TO RECOGNIZE THE GOAL OR PURPOSE OF THE LEGAL TEXT:

95. In ***Rohan Builders (India) Private Limited v. Berger Paints India Limited***²⁷ the Hon'ble Apex Court held that "*An interpretive process must recognise the goal or purpose of the legal text*", it was held that while interpreting a statute, the court must strive to give meaningful life to an enactment or rule and avoid cadaveric consequences that result in unworkable or impracticable scenarios. An interpretation which produces an unreasonable result is not to be imputed to a statute if there is some other equally possible construction which is acceptable, practical and pragmatic. Para-18 of ***Rohan Builders (India) Private Limited*** (supra) as under:

"18. While interpreting a statute, we must strive to give meaningful life to an enactment or rule and avoid cadaveric consequences that result in unworkable or impracticable scenarios. [*Franklin Templeton Trustee Services (P) Ltd. v. Amruta Garg,*

²⁷ 2024 SCC OnLine SC 2494

(2021) 6 SCC 736 : (2021) 225 Comp Cas 226] An interpretation which produces an unreasonable result is not to be imputed to a statute if there is some other equally possible construction which is acceptable, practical and pragmatic.”

96. In ***Renaissance Hotel Holdings Inc. V. B. Vijaya Sai***²⁸ the Hon'ble Apex Court held that it is the trite law that while interpreting the provisions of a statute, it is necessary that the textual interpretation should be matched with the contextual one. The Act must be looked at as a whole and it must be discovered what each section, each clause, each phrase and each word is meant and designed to say as to fit into the scheme of the entire Act. No part of a statute and no word of a statute can be construed in isolation.

97. Para Nos.66 & 67 of ***Renaissance Hotel Holdings Inc.*** (supra) are as under:

“66. It is thus trite law that while interpreting the provisions of a statute, it is necessary that the textual interpretation should be matched with the contextual one. The Act must be looked at as a whole and it must be discovered what each section, each clause, each phrase and each word is meant and designed to say as to fit into the scheme of the entire Act. No part of a statute and no word of a statute can be construed in isolation. Statutes have to be construed so that every word has a place and everything is in its place. As already discussed hereinabove, the said Act has been enacted by the legislature taking into consideration the increased globalisation of trade and industry, the need to encourage investment flows and transfer of technology, and the need for simplification and harmonisation of trade mark management systems. One of the purposes for which the said Act has been enacted is prohibiting the use of someone else's trade mark as a part of the corporate name or the name of business concern. If the entire scheme of the Act is construed as a whole, it provides for the rights conferred by registration and the right to sue for infringement of the registered trade mark by its

²⁸ (2022) 5 SCC 1

proprietor. The legislative scheme as enacted under the said statute elaborately provides for the eventualities in which a proprietor of the registered trade mark can bring an action for infringement of the trade mark and the limits on effect of the registered trade mark. **By picking up a part of the provisions in sub-section (4) of Section 29 of the said Act and a part of the provision in sub-section (1) of Section 30 of the said Act and giving it a textual meaning without considering the context in which the said provisions have to be construed, in our view, would not be permissible.** We are at pains to say that the High Court fell in error in doing so.

67. Another principle that the High Court has failed to notice is that **a part of a section cannot be read in isolation.** This Court, speaking through A.P. Sen, J., in *Balasinor Nagrik Coop. Bank Ltd. v. Babubhai Shankerlal Pandya* [*Balasinor Nagrik Coop. Bank Ltd. v. Babubhai Shankerlal Pandya*, (1987) 1 SCC 606] , observed thus : (SCC p. 608, para 4)

“4. ... It is an elementary rule that construction of a section is to be made of all parts together. It is not permissible to omit any part of it. For, **the principle that the statute must be read as a whole is equally applicable** to different parts of the same section.”

This principle was reiterated by this Court in *Kalawatibai v. Soiryabai* [*Kalawatibai v. Soiryabai*, (1991) 3 SCC 410] : (SCC p. 418, para 6)

“6. ... It is well settled that a section has to be read in its entirety as one composite unit without bifurcating it or ignoring any part of it.”

98. In *Aswini Kumar Ghosh v. Arabinda Bose*²⁹ it was held that it is one of the settled laws of construction that to ascertain the legislative intent, all the constituent parts of a statute are to be taken together and each word, phrase or sentence is to be considered in the light of the general purpose and object of the Act itself. Paragraph Nos.56 in *Aswini Kumar Ghosh* (supra) relevant part reads as under:

²⁹ AIR 1952 SC 369

“56. It is one of the settled rules of construction that to ascertain the legislative intent, all the constituent parts of a statute are to be taken together and each word, phrase or sentence is to be considered in the light of the general purpose and object of the Act itself.....”

99. Alternatively, even if it be taken that the ‘specified value’, under Section 2 (1) (i) as amended becomes effective with effect from 03.05.2018 and it is not dependent on the issue of the notification by the State Government for the pecuniary jurisdiction of commercial courts under Section 3 (1A) and the commercial courts already established would automatically get the pecuniary jurisdiction for the entire specified value now from Rs.3 lakhs, the consequence would be that all the commercial dispute cases from the entire State will have to be transferred to these two Commercial Courts. If that be the only interpretation possible, then there would be no difficulty in giving that interpretation ignoring the consequence, on the settled principle that if on a plain reading of the provisions of law only one conclusion and one interpretation is possible, then that has to be given effect to irrespective of the consequences flowing there from. But, if from the reading of the statute, another view is also possible, which would avoid inconvenient consequences, and would achieve the object or the goal for which the statute is framed, then the possible other interpretation which recognizes the goal and seeks to achieve that object shall be preferred, is also a well settled principle of interpretation of statute.

100. Further, even if it be taken that Section 2 (1) (i) comes into effect with effect from 03.05.2018, and then from the consequences aforesaid following, if the State Government then being of the view, that more commercial courts are to be constituted at the level of District Judge or below that level for the whole or part of the State with the pecuniary value as now changed, and then it may issue notification under Section 3 (1A), in that situation also, I am of the view that then again the consequences would be to transfer those cases from these two commercial courts to such newly constituted or established commercial courts of the specified pecuniary jurisdiction. So, I am of the view that at present the same exercise can be done which deserves to be done and should have been done by the State Government in terms of Section 3 (1A) when that is a mandate expressing the legislative intent and the legislation also being in clear terms.

101. I am of the view that the pecuniary jurisdiction is required to be conferred, as per the specified value (for different levels/slabs of it) on the Commercial Courts by the State Government under Section 3(1A) of the Act.

102. Consequently, in view of the legislative intent, the legislation being clear, use of 'notwithstanding anything contained in this Act' in Section 3 (1A), the object of amendment and the consequences, all discussed above, the date for implementation of the part of the reduced specified

value under Section 2 (1) (i), from Rs.3 lakh to less than Rs.1 crore, shall be from the date of the issuance of the notification by the State Government under Section 3 (1A) of the Commercial Courts Act in accordance therewith.

103. It is clarified that the State Government has not been given power to issue notification for the specified value under Section 2(1)(i) like the power given to the Central Government. So the State Government cannot change the specified value nor can raise the base value of the 'specified value' for Rs.3 lakh to any higher value. But, the State Government has to issue notification under Section 3(1A) for the pecuniary jurisdiction of the Commercial Court(s) to make the 'specified value' under Section 2 (1) (i) workable. If it does not notify the pecuniary value under Section 3(1A) and it is held that the amended specified value comes into effect on 03.05.2018 the difficulties would arise in institution of the suit/EP etc., before the already existing Commercial Courts, on the ground of lack of pecuniary jurisdiction in those Courts from three lakhs to less than one crore as these Courts were constituted for the 'specified value' from Rs.1 crore. Any change i.e., reduction in 'specified value' below Rs.1 crore but not below Rs.3 lakh, will not automatically give pecuniary jurisdiction for the reduced specified value. These commercial courts would refuse to entertain commercial dispute of the specified value from Rs.3 lakh upto less than Rs.1 crore. Similarly, the Regular Civil

Court would also not entertain such commercial dispute of such pecuniary jurisdiction of specified value on the ground that it is only the commercial court which has jurisdiction. In few cases, which came (before me) this was the position, so the grievance raised was, as to which court the litigant should approach. So, the insertion of Section 3 (1A) enabling the State Government to issue notification, using the expression 'notwithstanding anything contained in this Act', vide the same Amendment Act 28 of 2018 which amended Section 2 (1) (i) as well, it is necessary for the State Government to issue notification under Section 3 (1A).

104. Till such exercise is done by the State Government, the commercial dispute cases of the specified value from Rs.3 lakh to less than Rs.1 crore, should continue in the regular civil Courts in which those are pending and should be tried by those Courts. But, if any such case has already been transferred to any of the two commercial courts, pursuant to any judicial order of this Court passed in individual cases, those cases should remain with that Commercial Court.

III.C: Consideration of Question – C

105. In *Bellam Balakrishna* (supra) it was held that until the State Government issues a notification in consultation with the High Court, the specified value of rupees three lakhs as fixed in Section 2 (1) (i) will not come into operation.

106. In *M/s. Janset Labs Pvt. Ltd v. Agilent Technologies India Pvt. Ltd.*³⁰, High Court for the State of Telengana, Hyderabad held, which can be summarised, as follows:

a) that Section 2(1)(i) only mentions notification by the Central Government for raising the base level from Rs.3 lakh to a higher value with regard to the specified value of a Commercial dispute.

b) that the specified value under Section 2(1)(i) is distinct and different from 'pecuniary value' in Section 3(1A) of the Act, 2015. Both the provisions Section 2(1)(i) (specified value) and Section 3(1A) (pecuniary value) were marked by different parameters altogether. While specified value forms the core of the commercial dispute for admission into the regime of the Commercial Courts Act, 2015, pecuniary value fixes the competence-parameters of the Court for receiving a commercial suit.

c) The requirement of a notification by the State Government in Section 3(1A) cannot be read into or imported in Section 2(1)(i), which does not contemplate any such notification save and except of the Central Government.

d) that the Commercial dispute under Section 2(1)(i) of the 2015 Act contemplates a base threshold of three lakhs with effect from 03.05.2018. The amended Section 2(1)(i) applies to the State of

³⁰ CRP.1932 of 2025 THC on 22.09.2025

Telangana and no separate State Notification is required for giving effect to the said Amendment.

107. The propositions as in (a) & (b) of para-106, in ***M/s.Janset Labs Pvt. Ltd.*** (supra), this Court is in respectful agreement. However, for the conclusions in (c) & (d), I respectfully differ, for the reasons assigned in this judgment. True, that the meaning of 'specified value' in Section 2 (1) (i) and the 'pecuniary value' in Section 3 (1A) have different connotations. But, issuance of the notification under Section 3 (1A) for the pecuniary value/jurisdiction of the commercial courts in the State of Andhra Pradesh is required and is necessary to give effect to the substituted definition of 'specified value'. On the combined reading of both the sections, the object to be achieved by the Amendment Act and the introduction of Section 3 (1A) by the same amendment Act, using the expression 'notwithstanding anything contained', it cannot be said that the Sub-Section (1A) of Section 3 is not related or will have no impact on the applicability of Section 2 (1) (i). So, a notification under Section 3 (1A) is required, to give effect to Section 2 (1) (i) the 'specified value' at least to the extent of part of it from three lakhs to less than One Crore in the State of Andhra Pradesh.

108. In ***Daimler Financial Services India Pvt.Ltd., v. Vikash Kumar***³¹, the learned Single Judge of the High Court of Jharkhand at Ranchi has taken the view:

a) that after amendment of Section 2(1)(i) of Commercial Courts Act by the Amendment Act 28 of 2018, the specified value of the Commercial Courts established under Section 3(1) of the Commercial Courts Act, 2015 which is to be determined in accordance with Section 12 of the Act, is “not less than three lakhs rupees”. In other words it means an amount of rupees three lakhs or more with effect from 30.05.2018.

b) that in the absence of any notification under Section 3(1A) of the Act, 2015 as amended by the said Act 28 of 2018, the commercial Court at Dhanbad having been established under Section 3(1) of the Commercial Courts Act by the notification will have its revised “specified value” of not less than three lakhs rupees” with effect from 03.05.2018 instead of “not less than rupees one crore” as it stood fixed prior to 2018.

109. With respect I am not in agreement with the view taken in ***Daimler Financial Services India Pvt. Ltd.*** (supra) in Para-108(b) (supra).

³¹ WP(C).3941 of 2019 Jharkhand HC dated 24.06.2020

110. In ***M/s.Obulapuram Mining Company Pvt.Ltd., v. M/s.R.K.Mining Private Limited***³², a Co-ordinate Bench of this Court held as under:

“53) Therefore, the following conclusions are reached by ironing out the creases:

a) The Commercial Court alone is competent to execute decrees, which are above the specified value. The regular Civil Court will not have the jurisdiction to entertain such Execution Petitions with effect from 16.05.2019 in the State of Andhra Pradesh.

b) It is only the Commercial Court, Vijayawada or the Commercial Court at Visakhapatnam which can entertain the Execution Petitions if they are above the specified value in view of the G.O.Ms.No.78.

c) All orders passed after 16.05.2019 are orders passed by a coram non-judice. They suffer from an inherent lack of jurisdiction and they are held to be per se bad in law.

d) The pending E.P.No.13 of 2016 shall be transferred to the Commercial Court, Vijayawada, and both the parties are given liberty to start the proceedings afresh from the said date i.e., 16.05.2019.”

Against the judgment in ***M/s.Obulapuram*** (supra) SLP was filed in ***M/s.R.K.Mining Private Ltd., v. M/s.Obulapuram Mining Company Pvt.Ltd.***, in which stay was granted that the transfer of execution proceedings shall remain stayed by the Hon'ble Apex Court.

M/s.Obulapuram Mining Company Pvt. Ltd. (supra) was a case for the 'specified value' of the award of Rs.32.86 crore i.e., more than Rs.1 crore.

³² CRP.2183 of 2022 APHC 25.09.2023

111. In ***U.V.Satyanarayana*** (supra) the amount sought to be recovered was Rs.46,46,965/- i.e., less than Rs.1 crore. There the execution petition was filed in the year 2017 numbered E.P.No.151 of 2017. The said E.P. was before the learned Principal District Judge, East Godavari District. The same was directed to be transferred to the commercial court on the ground of change in the 'specified value' i.e., not less than Rs.3 lakh, pursuant to the amendment.

However, it appears that in ***U.V.Satyanarayana*** (supra) Section 19 of the Amendment Act 28 of 2018, was not brought to the notice of the learned Division Bench.

Section 19 reads as under:

"Save as otherwise provided the provision of this Act shall apply only to cases relating to commercial disputes filed on or after the date of commencement of this Act"

There the E.P.was filed not on or after the date of commencement of the amendment Act, but before that date in the year 2017.

In view of the discussion made hereinabove, I am of the view that ***U.V.Satyanarayana*** (supra) applying the 'specified value' as per the amended section 2 (1) (i) from the date of commencement of the Amendment Act 28/2018 with effect from 03.05.2018 and implementing it to a case pending on 03.05.2018, which was instituted prior to 03.05.2018 is not correct.

IV. Conclusions:

Answers on Questions A to C of the reference:

112. In view of the consideration made above I answer the reference as follows:

112.1. On **Question No.'A'** the notification by the Central Government, would be required only if the 'specified value' under the amended Section 2 (1) (i) of the Commercial Court Act, 2015 is to be raised from three lakhs (base value) to a 'higher value'. Otherwise the Central Government notification is not required. In the absence of any notification by the Central Government, the 'specified value' shall start from three lakhs rupees, without any upper cap.

112.2. On **Question No. 'B'** the 'specified value' under the amended Section 2(1)(i) of the Commercial Courts Act, 2015 shall be operative in the State of Andhra Pradesh, on issuance of the notification by the State Government in terms of Section 3 (1A) of the Commercial Court Act, for the part of the 'specified value' i.e., from Rs.3 lakh up to less than Rs.1 crore. It shall not come into effect, to the extent of that part (from three lakhs to less than one Crore) from 03.05.2018 the date of amendment Act 28 of 2018. A notification by the State Government, in terms of Section 3 (1A), constituting the Commercial Courts with the pecuniary jurisdiction of that part of the specified value (from Rs.3 lakh upto less than Rs.1 crore), after consultation with the High Court is mandatory.

112.3 On **Question No. 'C'** The judgment in ***Bellam Balakrishna*** (supra) lays down the law correctly to the effect that unless the State Government issues the notification in consultation with the High Court the amended specified value in Section 2 (1) (i) shall not come into operation, but with this modification/clarification that, it shall be for the extent of the 'specified value' 'from three lakhs upto less than one Crore', as held in this judgment.

112.4. ***U. V. Satyanarayana*** (supra) which applies the specified value (in that case less than one Crore), from the date of amendment Act i.e, 28 of 2018 with effect from 03.05.2018, as also to a case which was filed in the year 2017 i.e., pending on 03.05.2018, (without taking note of Section 19 of the Act 28 of 2018) to transfer that case to the Commercial Court, does not lay down the correct law.

112.5. For the aforesaid answers, it is further laid down as a necessary consequence, as under:

1. The commercial disputes of the specified value from rupees one crore and upwards including the execution petitions, for such amount, shall be in the Commercial Courts at Visakhapatnam District and at Krishna District (Vijayawada) for their respective territorial limits.
2. The commercial disputes including execution petitions of the 'specified value' from Rs.3 lakh upto less than Rs.1 crore, so long

as the notification is not issued by the State Government in terms of Section 3 (1A), of the Commercial Courts Act, 2015 shall not be instituted in the Commercial Courts at Visakhapatnam and Krishna District (Vijayawada), but shall be before the regular civil courts as per their pecuniary value and the territorial limits, subject to the issuance of the notification by the State Government in terms of Section 3(1A) of the Commercial Courts Act.

3. The commercial dispute cases of the part of the 'specified value' i.e., from Rs.3 lakh upto less than Rs.1 crore,

a) pending in the Regular Civil Courts on 03.05.2018 (the date of the Amendment Act 28 of 2018) shall continue to be tried by those Regular Civil Courts, in terms of Section 19 of the Amendment Act 28 of 2018, and

b) filed on or after 03.05.2018, in the regular civil courts shall also continue to be tried by such regular Civil Courts, subject to the issuance of the notification by the State Government under Section 3 (1A) of the Commercial Courts Act, 2015.

4. The aforesaid para-3 shall apply also to the Execution Petitions, arising out of the commercial dispute cases of the part of the 'specified value' from Rs.3 lakh upto less than Rs.1 crore,

a) irrespective of the date of the institution whether on or after 03.05.2018 and

b) irrespective of whether those arise out of the commercial dispute cases, filed before, on or after 03.05.2018;

113. It is expected that the State Government shall take necessary steps in terms of the mandate under Section 3, including sub-Section 1A, of the Commercial Court Act, 2015, on priority basis.

114. All the CRP(s) shall now be listed before the appropriate benches.

115. Let a copy of this judgment be sent to the learned Advocate General, State of Andhra Pradesh, the Chief Secretary to the State Government and the Law Secretary to the State Government for necessary action.

RAVI NATH TILHARI, J

Date: 18.05.2026
Dsr/Ag