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

Reserved on: 03.11.2026
Date of Decision: 17.11.2026
Date of Uploading: 17.11.2026

\# **CNR No. DLHC010378642023**

\+ CM(M) 1564/2023, CM APPL. 49348/2023, CM APPL. 64765/2026 & CM APPL. 67868/2026

VLCC PERSONAL CARE LIMITED .....Petitioner

Through: Mr. Rajshekhar Rao, Sr. Adv. with Mr. Shantanu Awasthi and Mr. Shikhar Mittal, Advs.

versus

SUDHIR SOLVENT PRIVATE LIMITED .....Respondent

Through: Mr. Pramod Kumar Sharma, Mr. Sidhant Aeron, Mr. Sahil Aeron, Mr. Prakhar Vashisht and Ms. Vaishnavi Singh, Advs.

CORAM:
HON'BLE MR. JUSTICE AJAY DIGPAUL

J U D G M E N T

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1. The present petition assails the orders dated 01.09.2022 and 07.07.2023 passed by the learned District Judge (Commercial Court), North District, Rohini Courts, Delhi, in CS (COMM.) 246/2021, titled *Sudhir Solvent Pvt. Ltd. v. VLCC Personal Care Pvt. Ltd.* By the first impugned order dated 01.09.2022, the learned Trial Court held the petitioner to have been duly served with summons on 16.02.2022 and, upon finding that no written statement had been filed within the prescribed period, struck off its defence. The application subsequently filed by the petitioner seeking recall of that order was dismissed by the second impugned order dated 07.07.2023.

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2. The respondent/plaintiff instituted the underlying suit on 26.07.2021, seeking recovery of Rs.1,69,32,511.49/-, along with interest, towards amounts allegedly due for goods supplied to the petitioner.

3. The recovery suit was taken up by the learned Trial Court on 24.12.2021, when the Court noted that the respondent had completed the requisite compliances under the Commercial Courts Act, 2015, and that the suit file was complete in all respects. Summons for settlement of issues were accordingly directed to be issued to the petitioner through PF, registered post, speed post, courier, email and WhatsApp returnable on 28.04.2022.

4. On 28.04.2022, the respondent had also moved an application under Order VIII Rule 10 CPC, seeking that the petitioner's defence be struck off on the ground that summons had already been served upon it through WhatsApp on 16.02.2022, but no written statement had been filed. As the said application was not mentioned in the order passed on that date, the respondent moved an application under Section 151 CPC on 09.05.2022, bringing the omission to the attention of the learned Trial Court. On 04.07.2022, the learned Trial Court noted that the application under Order VIII Rule 10 CPC was already on record and had inadvertently not been mentioned in the previous order. It accordingly directed that the application be considered on merits.

5. While considering the application under Order VIII Rule 10 CPC on 04.07.2022, the learned Trial Court noted that, as per the respondent, summons had been served upon the petitioner through WhatsApp on mobile number 981880XXXX. Since the petitioner was a company, the respondent was directed to clarify in whose name the

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said number was registered and the relationship of that person with the petitioner. The respondent was also directed to send the plaint and the entire set of documents to the petitioner through email at the two email addresses mentioned in the affidavit filed by its counsel. The matter was accordingly listed for further consideration of the application on 01.09.2022.

6. In compliance with the said direction, the respondent's counsel sent an email dated 23.07.2022 from her email account, indiaaerons@gmail.com, to five email addresses stated to belong to the petitioner. In the affidavit of service dated 31.08.2022, filed by Ms. Alisha Ahuja, counsel for the respondent, she affirmed that the plaint had been sent to the petitioner at the following addresses: (i) contact@vlccwellness.com; (ii) info@vlcc.co.in; (iii) subhendu.batra@vlccpersonalcare.com; (iv) regd.office@vlccwellness.com; and (v) kapindra.tripathi@vlccpersonalcare.com. The affidavit further stated that mobile number 981880XXXX belonged to Mr. Manish Jha, Chief Business Officer of the petitioner company, and was being used by him, and that summons had been served on the said number through WhatsApp on 16.02.2022.

7. When the matter was taken up on 01.09.2022, the learned Trial Court considered the affidavit filed by the respondent's counsel, which stated that mobile number 981880XXXX belonged to and was being used by Mr. Manish Jha, Chief Business Officer of the petitioner company, and that, in compliance with the order dated 04.07.2022, the plaint and accompanying documents had also been emailed to the petitioner at the five addresses mentioned above. On the basis of the affidavit, the material placed on record and the submissions advanced,

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the learned Trial Court held the petitioner to have been duly served on 16.02.2022. Noting that no appearance had been entered and no written statement had been filed within the period prescribed under the Commercial Courts Act, 2015, it struck off the petitioner's defence and partly allowed the respondent's application under Order VIII Rule 10 CPC. The learned Trial Court, however, did not pronounce judgment in favour of the respondent and instead posted the matter for PE.

8. The petitioner stated that it discovered an email relating to the suit in its spam folder on or about 19.10.2022 and ascertained the status of the proceedings on 20.10.2022. It entered appearance on 22.11.2022, when the respondent's witness was partly examined-in-chief, and filed an application under Section 151 CPC seeking recall of the order dated 01.09.2022. In the application dated 22.11.2022 seeking recall of the order dated 01.09.2022, the petitioner *inter-alia* contended that the respondent's service by email was defective as three out of five emails on which the petitioner was served belonged to a sister concern of the petitioner, and the remaining two emails belonged to employees of the petitioner, who were not the principal officers of the petitioner.

9. By way of the order dated 07.07.2023, the learned Trial Court dismissed the application, holding that the circular dated 17.01.2022 passed by the administrative side of this Court, had revived electronic service and, since summons had been issued on 18.01.2022, service through WhatsApp was valid. It further held that Mr. Manish Jha, whose association with the petitioner as its Chief Business Officer was not disputed, was a principal officer within the meaning of Order XXIX Rule 2(a) CPC. Finding no patent error or infirmity in the order

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dated 01.09.2022, it declined to recall the same. Aggrieved by the orders dated 01.09.2022 and 07.07.2023, the petitioner has invoked the supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

10. Mr. Raj Shekhar Rao, learned senior counsel for the petitioner, submitted that the petitioner could not have been deemed to have been served on 16.02.2022, as the WhatsApp message sent to Mr. Manish Jha contained only a photograph of the summons and was not accompanied by the plaint or the documents filed with it. He drew attention to the order dated 28.04.2022, which recorded that the process issued through the process server had not been received back and directed fresh summons to be issued through all modes. He further pointed out that, by order dated 04.07.2022, the learned Trial Court itself directed the respondent to send the plaint and the entire set of documents to the petitioner by email. The respondent complied with that direction only on 23.07.2022. Thus, even on the respondent's own case, the plaint and documents had not accompanied the WhatsApp summons dated 16.02.2022. Reliance was placed on Order V Rule 2 CPC, which requires every summons to be accompanied by a copy of the plaint. He also relied upon the order dated 10.07.2020 passed by the Supreme Court in ***In Re: Cognizance for Extension of Limitation***[1]**,** which permitted service through instant messaging applications such as WhatsApp only where the documents were also served by email simultaneously on the same date. That requirement, he submitted, had not been fulfilled

11. Mr. Rao next submitted that service of the WhatsApp message upon Mr. Manish Jha could not constitute service upon the petitioner

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company within the meaning of Order XXIX Rule 2 (a) CPC. The provision contemplates service upon a corporation through its secretary, any director or other principal officer, or by leaving the summons at, or sending it by post to, its registered office. Mr. Jha was neither a director nor a principal officer authorised to receive summons on behalf of the petitioner. He was merely its Chief Business Officer. Learned senior counsel emphasised that the respondent had itself impleaded the petitioner through three named directors, namely, Mr. Sanjay Mehta, Mr. Sandeep Ahuja and Mr. Jayant Khosla, but had not served any of them. Reliance was placed on ***Shalimar Rope Works v. Abdul Hussain***[2], and ***Sobran Singh v. Sadhan Sahkari Samiti***[3], to submit that service upon a corporation must conform to the modes prescribed under Order XXIX Rule 2 (a) CPC and that service upon an employee, who does not fall within the categories specified therein, cannot be treated as service upon the company.

12. He has further challenged the reliance placed on the email dated 23.07.2022. Of the five email addresses to which the respondent claimed to have sent the plaint, the petitioner contended that three—**contact@vlccwellness.com**, **info@vlcc.co.in** and **regd.office@vlccwellness.com**—were associated with its sister concerns and were not regularly used by the petitioner. The remaining two—**subhendu.batra@vlccpersonalcare.com** and **kapindra.tripathi@vlccpersonalcare.com**—were email accounts operated by employees and did not belong to any director, principal officer, authorised representative or person authorised to receive

[2] **AIR 1980 SC 1163**
[3] **1985 AWC 1045**

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summons on behalf of the company. Service through these addresses, therefore, did not satisfy Order XXIX Rule 2 (a) CPC.

13. Mr. Rao lastly submitted that striking off the petitioner's defence had consequences far beyond a procedural default. The petitioner would be required to face adjudication of a claim exceeding Rs.1.69 crores, along with interest, without being permitted to place its defence on record or contest the respondent's claim on merits. The petitioner disputed the amounts claimed, including on the grounds that the goods supplied were allegedly adulterated and that certain supplies had failed quality tests. The inability to file a written statement would thus deprive the petitioner of a meaningful opportunity to defend the suit. Learned senior counsel urged that procedural requirements governing service must be observed, but procedural infirmities ought not to be applied in a manner that defeats substantive justice, particularly when the petitioner had entered appearance and sought recall of the order upon learning of the proceedings.

14. Per contra, learned counsel for the respondent submitted that the petitioner had been duly served with summons on 16.02.2022 through WhatsApp on mobile number 981880XXXX, which belonged to Mr. Manish Jha, its Chief Business Officer. He submitted that Mr. Jha was not an ordinary employee but a principal officer of the petitioner company, being in charge of its business affairs and directly reporting to its head. Service upon him, therefore, constituted valid service upon the company under Order XXIX Rule 2(a) CPC.

15. Learned counsel next submitted that, in any event, the petitioner had also been served with the plaint and the accompanying documents through email dated 23.07.2022. Of the five email addresses to which the email was sent, as mentioned in the affidavit of service dated

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31.08.2022, **regd.office@vlccwellness.com** was reflected in the Ministry of Corporate Affairs records as the registered email address of the petitioner company. The petitioner could not disown service at its own registered email address by describing it as belonging to a sister concern. It was further submitted that **contact@vlccwellness.com** and **info@vlcc.co.in** were regularly operated by the key managerial personnel of the petitioner and that the group companies shared the same registered office and management. The remaining two email addresses, namely, **subhendu.batra@vlccpersonalcare.com** and **kapindra.tripathi@vlccpersonalcare.com**, were admittedly operated by employees of the petitioner. The respondent thus contended that the petitioner's denial of the email addresses was evasive and could not invalidate the service effected upon it.

16. Learned counsel further disputed the petitioner's explanation that the email was discovered in its spam folder only on 19.10.2022. He pointed out that the email containing the plaint and the accompanying documents had been sent on 23.07.2022, nearly three months before the date on which the petitioner claimed to have discovered it. While relying on a printout of the settings for Gmail, he submitted that emails received in the spam folder are automatically deleted after 30 days and, therefore, the petitioner's assertion that the email had remained there until 19.10.2022 was inherently improbable and practically infeasible. The respondent contended that the petitioner could not rely upon its own alleged failure to monitor its email accounts to explain its absence from the proceedings, particularly when the plaint and documents had been sent to the email addresses associated with the company.

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17. Learned counsel also submitted that the petitioner's conduct had delayed the adjudication of the suit despite service of summons having been effected on 16.02.2022. Even after the order dated 01.09.2022 striking off its defence, the petitioner entered appearance only on 22.11.2022 and thereafter sought recall of the said order. The respondent contended that the petitioner's repeated objections to service, despite the WhatsApp service upon its Chief Business Officer and the subsequent transmission of the complete plaint and documents by email, had obstructed the progress of the suit. Such conduct, it was submitted, was contrary to the object of the Commercial Courts Act, 2015, which seeks to secure expeditious and effective adjudication of commercial disputes. A defendant could not be permitted to frustrate that object by raising successive objections to service after failing to participate in the proceedings.

18. Learned counsel lastly submitted that, once service of summons was established, the petitioner was bound by the timelines prescribed for filing a written statement in a commercial suit. Under Order VIII Rule 1 CPC, as amended by the Commercial Courts Act, 2015, the written statement could not be taken on record beyond 120 days from the date of service of summons. Reliance was placed on ***SCG Contracts India Pvt. Ltd. v. K.S. Chamankar Infrastructure Pvt. Ltd***[4], wherein the Supreme Court held that the 120-day period is mandatory and that, upon its expiry, the defendant forfeits the right to file a written statement and the Court has no power to extend the time. Since the petitioner had been served on 16.02.2022 but did not enter appearance or file its written statement within the prescribed period,

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[4] **(2019) 12 SCC 210**

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the learned Trial Court had rightly struck off its defence by order dated 01.09.2022.

19. Heard. Perused the records.

20. The primary question which arises for consideration is whether the service of summons through electronic modes on 16.02.2022 and emails dated 23.07.2022, as stated in the affidavit of service dated 31.08.2022, amounted to valid service upon the petitioner. If the service by the emails are held to be valid, then the stringent timeline of 120 days under Order VIII CPC, as enforced by the ***SCG Contracts (Supra)***case, must necessarily be enforced.

21. However, before adverting to whether the petitioner was validly served by email on 23.07.2022, it is necessary to examine whether they were served on 16.02.2022 as summons were sent to Mr. Manish Jha on WhatsApp. The petitioner, while relying on the summons report, has submitted that the summons were served without a copy of the plaint and the same runs afoul of Order V Rule 2 CPC which requires the summons to be served with the entire plaint. The respondent has also not led any evidence to show that the summons were sent along with the copy of the plaint on 16.02.2022 so as to fulfil the rigours of Order V Rule 2 CPC. It is also borne from the record that despite said service, the learned trial court ordered fresh service of summons on 28.04.2022, thereby implying the need for issuance of fresh summons due to defective issuance and service of summons on 16.02.2022. Thus, this Court is of the view that the service dated 16.02.2022 is defective and improper.

22. It is borne from the record that attempts have been made to serve the petitioner on two occasions *viz.* 16.02.2022 and 23.07.2022. Even though the service dated 16.02.2022 has been held to be

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improper, but as there admittedly has been a service by email, this Court deems it relevant to consider the contemporaneous service *viz.* 23.07.2022.

23. As regards the email service, the address **regd.office@vlccwellness.com** was reflected in the MCA records as the petitioner's registered email address. The petitioner has stated that the address was also used by its sister concerns and was, therefore, inaccessible to it. This explanation, however, was not supported by any material demonstrating that the petitioner had no access to, or could not receive communications at, the said address. The prerogative of the respondent/plaintiff was to serve the plaint and accompanying documents at the registered email address reflected in the MCA records, and had, in fact, done so. Once a particular email address is reflected on the petitioner's own portal with the MCA, it is the duty of the petitioner to ensure that they have continuous and uninterrupted access to the same, and if there is any change to the email address, then there must be prompt efforts by the petitioner to make the necessary changes on the MCA portal, which has not been done in the present case. The petitioner cannot be allowed to claim that they did not have access to their own email ID, without making any efforts to make the requisite changes on the portal.

24. The respondent had also sent the email to four other addresses, namely, **kapindra.tripathi@vlccpersonalcare.com**, **info@vlcc.co.in**, **subhendu.batra@vlccpersonalcare.com** and **contact@vlccwellness.com**. All four addresses formed part of the memo of parties filed with the suit. The petitioner subsequently stated that the second and fourth addresses were associated with sister concerns, while the other two belonged to its employees. However,

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their inclusion in the memo of parties had remained uncontroverted until the petitioner filed its application seeking recall of the order dated 01.09.2022. The respondent had thus not confined its efforts to a single email address. It had sent the plaint to the registered email address reflected in the MCA records and to the four additional addresses disclosed in the memo of parties.

25. In the absence of any material establishing that these addresses were inaccessible to the petitioner, the respondent had sufficiently demonstrated its bona fides and discharged its burden of communicating the plaint and accompanying documents to the petitioner. The learned trial court has, after appreciating the affidavit of service and the submissions made at bar, passed a reasoned order regarding the factum of service, and this Court under Article 227 does not sit as a court of appeal over disputed questions of fact.

26. Even though the service dated 16.02.2022 was improper, however, the same does not mean that the petitioner was not validly served at all. The petitioner, on 23.07.2022, had been served with copy of the summons and the entire plaint on 5 email IDs, including the MCA registered email ID, thus, the petitioner would be deemed to be validly served. Once it is established that the petitioner was validly served, the necessary rigours of Order VIII, as mandated by the ***SCG Contracts (Supra)*** case must necessarily follow.

27. The ***SCG Contracts (Supra)*** case mandates that the 120 day time period from the date of receipt of summons must be strictly enforced, especially in cases of commercial suits. In the present case, since the petitioner has been served, and has received summons, on 23.07.2022 and their 120 days expired on 20.11.2022. The petitioner has filed their application for recall on 22.11.2022, as seen by the

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affidavit attached thereto. Thus, even aside from the fact that the petitioner has not shown any cogent reasons for the delay, they were either ways beyond the statutory time period of 120 days, which is rigorously enforced with no scope for condonation outside of the 120 days.

28. Thus, from a perusal of the affidavit of service dated 31.08.2022 which clearly mentions that the summons along with the plaint were served on the MCA registered email ID of the petitioner, this Court is of the opinion that the petitioner was validly served on 23.07.2022. The email ID as declared on the MCA portal is not just a mere formality, but signifies the relevant address on which the petitioner could be contacted. Since the email service has been held to be proper, there is no quarrel with the fact that the stringent timeline under Order VIII CPC must be enforced, and the petitioner/defendant accordingly forfeits their right to file a written statement.

29. The present petition is dismissed accordingly. Pending applications, if any, also stand dismissed.

30. The judgment be uploaded on the website forthwith.

AJAY DIGPAUL, J.

NOVEMBER 17, 2026
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