

In The High Court at Calcutta
Ordinary Original Civil Jurisdiction
[Commercial Division]
Original Side

Present: The Hon'ble Justice Aniruddha Roy

C.S. (COM) 171/2025

JONES LANG LASALLE PROPERTY CONSULTANTS (INDIA) PRIVATE LIMITED

-VERSUS-

M. A. LEASING AND CONSRUCTION PVT. LTD. AND ORS.

For the plaintiff :

Mr. Sourojit Dasgupta, Adv.

Mr. Subhradip Roy, Adv.

Mr. Souvik Bose, Adv.

Reserved on : 12.03.2026

Judgment on : 06.05.2026

ANIRUDDHA ROY, J.:

Facts:

1. Plaintiff on account of certain services having been rendered by it to the defendants claims its unpaid price/fees from the defendants. The defendant no. 1 had allegedly received and accepted the service provided by the plaintiff and the defendant nos. 2 to 4 are the directors of the defendant no. 1.
2. On **November 29, 2019**, since the price/fees had not been paid by the defendant no. 1 to the plaintiff, a notice under **Section 8 of the Insolvency and Bankruptcy Code, 2016** (hereinafter, **IBC**) was issued upon the defendant no. 1.

3. By a letter dated **December 12, 2019**, the said demand notice was replied to by the defendant no. 1.
4. On the basis of the said notice, the plaintiff on July 29, 2020 had instituted a proceeding under **Section 9 of IBC** before the Jurisdictional National Company Law Tribunal (hereinafter, **NCLT**).
5. On **September 10, 2023** (at page 220) of the application NCLT **dismissed** the said Section 9 application by holding that there are pre-existing dispute between the parties. The relevant observation from the order is quoted below:-

“In view of the above facts and circumstances, we find that there was a pre-existing dispute between the parties and hence the present petition shall be rejected on this ground alone.

Consequently, CP (IB) No. 841/KB/2020 shall stand rejected. Needless to say, the operational creditor is free to pursue its remedies under any other law and the dismissal of the present petition shall not stand in the way of such pursuit of remedies.”

6. Thereafter, the plaintiff had filed the instant suit and prays for the benefit under **Section 14 of the Limitation Act, 1963**.

Submissions:

7. Mr. Sourojit Dasgupta, learned Advocate appearing for the plaintiff referring to the provision under **Section 9 of IBC** submits the adjudicating authority shall within **14 days** of receipt an application under sub-**Section (2) to Section 9 of IBC**, by an order admit the application and communicate such decision to the operational creditor and corporate-debtor. The application shall also be admitted if no notice of dispute has been received by the operational creditor or there is no record of dispute in the information utility. He submits that if there is notice of dispute, i.e., if there is a pre-existing dispute, the tribunal shall reject the application.

8. Mr. Dasgupta further submits that the adjudicating authority shall, within **14 days** of receipt of application under sub-Section (2), by an order rejecting the application shall communicate such decision to the operational creditor and corporate-debtor, if notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility.
9. Mr. Sourojit Dasgupta, learned Advocate appearing for the plaintiff submits that for an application filed under Section 9 of IBC to be entertained by the tribunal, at the threshold, jurisdiction to be crossed is regarding existence of prior dispute. If there is a pre-existing dispute, the same shall inhibit the tribunal from entertaining or considering the application. Thus, according to Mr. Dasgupta, learned Advocate, this amounts to defect of jurisdiction or other cause of like nature, within the meaning of Section 14 of Limitation Act, 1963. In support, he has relied upon a decision of the Hon'ble Supreme Court ***In the matter of: Roshanlal Kuthalia vs. R. B. Mohan Singh Oberoi reported at (1975) 4 SCC 628.***
10. Mr. Sourojit Dasgupta, learned Advocate submits that the said judgment ***In the matter of: Roshanlal Kuthalia (supra)*** was subsequently followed in various other judgments, which are:-
- (a) In the matter of : Union of India Vs. West Bengal Paper Mills, reported at (2004) 3 SCC 458;***
- (b) In the matter of: Shakti Tubes Vs. State of Bihar, reported at (2009) 1 SCC 786;***
- (c) In the matter of : M. P. Steel Corporation Vs. Commissioner of Central Excise, reported at (2015) 7 SCC 58.***

11. Mr. Sourojit Dasgupta, learned Advocate submits that both the fora, NCLT and this Court are correct and jurisdictional for adjudication of the subject dispute. In those circumstances, sub-Section 14(1) of the Limitation Act would be applicable. In support, he has placed reliance upon a decision of the Hon'ble Supreme Court ***In the matter of India Electric Works Vs. James Mantosh reported at (1971) 1 SCC 24.***
12. Learned Advocate then submits that there is a difference between sub-Section (1) and sub-Section (2) to Section 14 of the Limitation Act. Under sub-Section (1) both the proceedings shall have the same *matter in issue* whereas under sub-Section (2) both the proceedings shall be for the *same relief*. Sub-Section (1) specifically provides that the subsequent proceeding shall be a *suit* whereas sub-Section (2) provides that the subsequent proceeding shall be an *application*. He submits that the provision under sub-Section (2) of Section 14 of the Limitation Act shall not apply in the present case, since the sub-sequent proceeding is not an application and both the proceedings are not for same relief. The proceeding under IBC is primarily for revival or resolution of a company, whereas in a suit the proceeding is for recovery of debt.
13. Learned Advocate has relied upon a decision of the Hon'ble Supreme Court ***In the matter of: Sesh Nath Singh vs. Baidyabati Sheoraphuli reported at (2021) 7 SCC 313*** to submit that proceeding under IBC is ultimately for recovery of debt, however, it cannot be denied that primary object of IBC is not recovery of money but only for resolution of debt of the debtor.

14. Mr. Dasgupta then submits that in the present case what is required to be seen is whether the proceeding before NCLT and this Court relates the same matter in issue.
15. Mr. Dasgupta then submits that the application filed before NCLT was based upon the self-same fiscal claim which is the subject-matter in the instant suit. The sole issue will be whether the defendant is a defaulter and liable to pay the plaintiff. Therefore, the matter in issue of the proceeding before NCLT under Section 9 of IBC and the instant suit are same and therefore the provision under sub-Section (1) to Section 14 of the Limitation Act shall apply.
16. To bring the distinction between the two sub-Sections, Mr. Dasgupta has relied upon a decision of the Hon'ble Supreme Court ***In the matter of: HPCL Bio-Fuels Vs. Shahaji Bhandudas Bhad reported at 2024 SCC Online SC 3190***. Hon'ble Supreme Court clearly laid down this scope and effect of two sub-Sections under Section 14 of the Limitation Act, in the context of IBC. In that case, the prior proceeding was before NCLT whereas the sub-sequent proceeding was for appointment of an arbitrator before a civil court, which attracted Section 14 (2) of the Limitation Act. Reliefs in the said two proceedings were different. For such reason, the Hon'ble Supreme Court refused to extend the benefit of Section 14 of the Limitation Act in that case. In the present case, the subsequent proceeding in the instant suit where the *matter in issue* is same with that of the previous proceeding filed before NCLT under Section 9 of IBC.
17. Mr. Dasgupta, learned Advocate then placed reliance on a further judgment of Delhi High Court ***In the matter of: Seitz Gmbh Vs. Simran***

Technologies reported at 2025 SCC Online Del 2403. In the said case, in a factually similar circumstance benefit of sub-Section 14 of the Limitation Act was granted to the plaintiff.

- 18.** Learned Advocate Mr. Sourojit Dasgupta for the plaintiff submits that the plaintiff has filed the suit within the limitation period of 3 years from the date when the cause of action arose on 29th October 2019, if the period from 23rd July 2020 to 10th September 2023 is excluded as per Section 14 of the Limitation Act, 1963. It is further submitted that the period from 20th September 2024 till 12th December 2024 is liable to be excluded due to the mediation proceeding initiated by the plaintiff. During the total period from 29th October 2019 till filing of the suit on 15th December 2025, there has been a delay of about 982 days.
- 19.** Unless the said delay is condoned and the instant plaint is accepted to be filed within the period of limitation, the plaintiff shall be non-suited without having any fault or laches on its part and the plaintiff shall suffer irreparable loss, prejudice and injury.
- 20.** The plaint should be accepted by applying Section 14 (1) of the Limitation Act.

Decision :

- 21.** The core issue needs to be decided is whether the provisions laid down under **Section 14 of the Limitation Act, 1963** shall apply in the facts and circumstance of this case where the previous proceeding was filed under Section 9 of IBC and the sub-sequent proceeding is the instant civil suit.

22. For convenience Section 14 of the Limitation Act provides for exclusion of time of proceeding bona fide in Court without jurisdiction and is reproduced below:-

“14. Exclusion of time of proceeding bona fide in Court without jurisdiction:-

(1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(2) In computing the period of limitation for any application, the time during which the applicant has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(3) Notwithstanding anything contained in rule 2 of Order XXIII of the Code of Civil Procedure, 1908 (5 of 1908), the provisions of sub-section (1) shall apply in relation to a fresh suit instituted on permission granted by the court under rule 1 of that Order, where such permission is granted on the ground that the first suit must fail by reason of a defect in the jurisdiction of the court or other cause of a like nature.

Explanation—For the purposes of this section,—
(a) in excluding the time during which a former civil proceeding was pending, the day on which that proceeding was instituted and the day on which it ended shall both be counted;

(b) a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding;

(c) misjoinder of parties or of causes of action shall be deemed to be a cause of a like nature with defect of jurisdiction.”

23. The above provision of the Limitation Act provides for exclusion of time of proceeding bona fide in Court without jurisdiction. Therefore, the first test whether the party seeking benefit under Section 14 of the Limitation Act had proceeded *bona fide* in Court without jurisdiction.

24. Under **Section 14(1)** of the Limitation Act, in computing the period of limitation for a suit, the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a Court of first instance or of appeal or revision, against the defendant shall be excluded, where the proceeding relates to the *same matter in issue* and the proceeds in good faith which, for defect of jurisdiction or other cause of like nature, is unable to entertain it. Thus, the tests require to be examined for applicability of Section 14(1) should be :-

- a) The subsequent proceeding must be a suit;
- b) Both the previous and sub-sequent proceeding must be civil proceeding;
- c) Both the previous and sub-sequent proceeding must be between the same parties;
- d) The previous and sub-sequent proceeding must have the *same matter in issue*;

- e) The previous proceeding must have failed owing to *defect of jurisdiction of previous Court or any other cause of like nature*;
- f) The previous proceeding must have been prosecuted in good faith and with due diligence and
- g) Both the previous and the sub-sequent proceeding must be before a Court.

25. Sub-Section (2) to Section 14 under the similar circumstance and stipulation, as stipulated under Sub-Section (1) to Section 14, relates to **application** and not a **suit**. The another difference in expression that under **sub-Section (1)**, the sub-sequent proceeding being the suit must relate to the **same matter in issue** whereas under sub-**Section (2)** it is the **same relief** between the same parties. However, in the facts of the instant case, since the sub-sequent proceeding is a **civil suit**, this Court is not required to discuss and interpret sub-Section (2) to Section 14 of the Limitation Act extensively and in detail. The previous proceeding in the instant case is proceeding initiated under Section 9 of IBC which was dismissed by jurisdictional NCLT vide order dated **September 10, 2023** with the observation already quoted above and the ground of dismissal of the IBC proceeding was a pre-existing dispute having been existed between the parties.

26. While enacting IBC the legislature in its wisdom has provided that an application for initiation of Insolvency Resolution Process by an operational creditor should be in accordance with provision laid down under Section 9 of IBC. Section 9 (5) (1) (d) of IBC, provides that the jurisdictional adjudicating authority is obliged and it shall reject the application by an operational

creditor within the time frame stipulated, if notice of dispute has been received by the operational creditor and there is no record of dispute in the information utility. Thus, it is a time bound obligation caste upon the adjudicating authority under IBC.

- 27.** Limitation Act has been enacted to consolidate and amend the Law of Limitation of suits and other proceedings and for purposes related thereto. Limitation Act applies to '*suits and other proceedings and for purposes connected therewith*', as would be evident from the preamble of this statute. The *expression* other proceedings are necessarily proceedings arising out of and/or related to suit. The law is well settled that when under a specific statute, a specific provision for period of limitation is mentioned, in that case the period of limitation for a proceeding under that statute should be governed by the provisions contained in that statute. However, various statutes have adapted and borrowed the provisions of Limitation Act by incorporation or reference, either in its entirety or to a limited extent, for these such borrowed provision would apply to any proceeding which is initiated under such statute.
- 28.** On a plain reading of IBC it appears and is evident that the law framers was not intended to give a new lease of life to debts which were already time barred. **Section 238-A** of IBC inter alia provides that the provisions of the Limitation Act, 1963 shall, *as far as may be*, apply to the proceeding or appeal before the adjudicating authority and other relevant for a mentioned thereunder. The expression used under the said provision of IBC is significant. It says that the provisions of the Limitation Act shall apply to the proceedings, *as far as may be*. Section 238-A of IBC

imposes an overriding effect to IBC, notwithstanding anything inconsistent therewith contained in any other law, for the time being in force, or any instrument having effect, by virtue of any such law. There is no specific period of limitation prescribed under the Limitation Act, 1963 for an application filed under IBC. Consequently Article 137 of the Limitation Act applies. It is also noteworthy and significant that IBC does not excluded the application of Limitation Act, 1963 to proceedings under IBC, but shall be applicable *as far as may be to extent feasible*.

- 29.** Section 14 of the Limitation Act is to be read as a whole and in a liberal manner, as far as possible, to advance the cause of justice. A conjoint, meaningful and harmonious reading of the three sub-Sections read with the explanations under Section 14 of the Limitation Act, 1963, this Court is of the firm and considered view that an applicant who has prosecuted another civil proceeding, which is a previous one, with due diligence, before a forum which is *unable to entertain* the same on account of *defect of jurisdiction or any other cause of like nature*, is entitled to exclusion of the time during which the applicant had been prosecuting such previous proceeding, in computing the period of Limitation. The substantive provisions of sub-Sections (1), (2) and (3) of Section 14 of the Limitation Act do not provide that Section 14 can only be invoked on termination of previous proceeding, prosecuted in good faith. The explanation provided in a statute under a particular Section must be read so as to harmonise with and remove ambiguity, if any, in the main Section embodied under the statute. The explanation should not be construed or understood to widen the scope and ambit of the main Section. Neither an explanation to a Section can be

understood and construed to be in contrary to the provision laid down under the main Section or as substantive provision.

30. The Hon'ble Supreme Court *In the matter of: Sesh Nath Singh (Supra)*

had observed as under quote:-

“79. In our considered view, Explanation (a) cannot be construed in a narrow pedantic manner to mean that Section 14 can never be invoked until and unless the earlier proceedings have actually been terminated for want of jurisdiction or other cause of such nature. Explanation (a), which is clarificatory, only restricts the period of exclusion to the period between the date of initiation and the date of termination. An applicant cannot claim any further exclusion.

80. To cite an example, if a party were to file a suit in a wrong forum, to enforce payment of money secured by a mortgage or charge upon immovable property, for which the prescribed period of limitation is twelve years, after expiry of three years from the date of accrual of the right to sue, and then file an application under Section 7 IBC after dismissal of the suit for want of jurisdiction, that application under Section 7 IBC would be time-barred since such party would not be entitled to exclusion of any period of time beyond the date of institution and date of termination of the earlier proceeding. If after exclusion of the time between the initiation and termination of the proceedings instituted bona fide and in good faith and prosecuted with due diligence, an application was still beyond three years, Section 14 would not help save limitation.

81. To cite another example, if civil proceedings were initiated in a wrong forum in good faith and prosecuted with due diligence, but after the proceedings ended, time was wasted by making frivolous, meritless applications, the applicant would only be entitled to exclusion of time from the date of initiation till the end of the proceedings initiated in good faith and bona fide and pursued diligently, and no more. The applicant would not be entitled to exclusion of any further time spent in pursuing frivolous further proceedings, or otherwise.

82. To sum up, Section 14 excludes the time spent in proceeding in a wrong forum, which is unable to entertain the proceedings for want of jurisdiction, or other such cause. Where such proceedings have ended, the outer limit to claim exclusion under Section 14 would be the date on which the proceedings ended.”

31. The important expression used under **sub-Section (1) to Section 14 of the Limitation Act** is ***“from defect of jurisdiction or other cause of a like nature.”*** The law is well-settled that Section 14 of the Limitation Act must receive liberal interpretation. Section 14 of the Limitation Act is wide in its application. The same cannot be restricted only for application two cases of defect of jurisdiction but the same is also applicable two cases where the previous proceeding has failed on account of other cause of like nature. Therefore, even if there may not be any defect of jurisdiction but the previous proceeding may fail without adjudicating its merits but on any other reasons for other causes of like nature. On a meaningful reading of the said expression in the light of the letters and spirit of Section 14 of the Limitation Act, this Court is also of the firm and considered view that, such expression has been used not only to cover the jurisdictional defects but also any other deficiency which operates as a **jurisdictional bar** for the Adjudicating Authority/Court/Tribunal from entertaining or accepting the previous proceeding without going into the merit of such proceeding. Therefore, in the order of dismissal of NCLT dismissing the Section 9 proceeding filed under IBC **dated September 10, 2023**, when shows that the dismissal was at the threshold on the ground of pre-existing dispute, which is a jurisdictional bar under the relevant statute, IBC, to entertain the proceeding, such dismissal was not on merit and should be construed within the meaning and expression ***‘other cause of like nature’*** used under **sub-Section (1) to Section 14** of the Limitation Act.

32. The Hon’ble Supreme Court ***In the matter of: M. P. Steel Corporation (Supra)*** had observed as under:-

"50. Section 14 has been interpreted by this Court extremely liberally inasmuch as it is a provision which furthers the cause of justice. Thus, in Union of India v. West Coast Paper Mills Ltd.³², this Court held: (SCC p. 464, para 14)

"14.... In the submission of the learned Senior Counsel, filing of civil writ petition claiming money relief cannot be said to be a proceeding instituted in good faith and secondly, dismissal of writ petition on the ground that it was not an appropriate remedy for seeking money relief cannot be said to be 'defect of jurisdiction or other cause of a like nature' within the meaning of Section 14 of the Limitation Act. It is true that the writ petition was not dismissed by the High Court on the ground of defect of jurisdiction. However, Section 14 of the Limitation Act is wide in its application, inasmuch as it is not confined in its applicability only to cases of defect of jurisdiction but it is applicable also to cases where the prior proceedings have failed on account of other causes of like nature. The expression 'other cause of like nature' came up for the consideration of this Court in Roshanlal Kuthalia v. R.B. Mohan Singh Oberoi and it was held that Section 14 of the Limitation Act is wide enough to cover such cases where the defects are not merely jurisdictional strictly so called but others more or less neighbours to such deficiencies. Any circumstance, legal or factual, which inhibits entertainment or consideration by the court of the dispute on the merits comes within the scope of the section and a liberal touch must inform the interpretation of the Limitation Act which deprives the remedy of one who has a right."

51. Similarly, in India Electric Works Lid. v. James Mantosh, this Court held: (SCC pp. 28-29, para 7) "7. It is well settled that although all questions of limitation must be decided by the provisions of the Act and the courts cannot travel beyond them the words 'or other cause of a like nature' must be construed liberally. Some clue is furnished with regard to the intention of the legislature by Explanation III in Section 14(2). Before the enactment of the Act in 1908, there was a conflict amongst the High Courts on the question whether misjoinder and non-joinder were defects which were covered by the words 'or other cause of a like nature'. It was to set at rest this conflict that Explanation III was added. An extended meaning was thus given to these words. Strictly speaking misjoinder or non-joinder of parties could hardly be regarded as a defect of jurisdiction or something similar or analogous to it."

52. As has been already noticed, Sarathy case has also held that the court referred to in Section 14 would include a quasi-judicial tribunal. There appears to be no reason for

limiting the reach of the expression "prosecuting with due diligence" to institution of a proceeding alone and not to the date on which the cause of action for such proceeding might arise in the case of appellate or revisional proceedings from original proceedings which prove to be abortive. Explanation (a) to Section 14 was only meant to clarify that the day on which a proceeding is instituted and the day on which it ends are also to be counted for the purposes of Section 14. This does not lead to the conclusion that the period from the cause of action to the institution of such proceeding should be left out. In fact, as has been noticed above, the Explanation expands the scope of Section 14 by liberalising it. Thus, under Explanation (b) a person resisting an appeal is also deemed to be prosecuting a proceeding. But for Explanation (b), on a literal reading of Section 14, if a person has won in the first round of litigation and an appeal is filed by his opponent, the period of such appeal would not be liable to be excluded under the section, leading to an absurd result. That is why a plaintiff or an applicant resisting an appeal filed by a defendant shall also be deemed to prosecute a proceeding so that the time taken in the appeal can also be the subject-matter of exclusion under Section 14. Equally, Explanation (c) which deems misjoinder of parties or a cause of action to be a cause of a like nature with defect of jurisdiction expands the scope of the section. We have already noticed that the India Electric Works Ltd. judgment has held that strictly speaking misjoinder of parties or of causes of action can hardly be regarded as a defect of jurisdiction or something similar to it. Therefore properly construed, Explanation (a) also confers a benefit and does not by a side wind seek to take away any other benefit that a purposive reading of Section 14 might give. We, therefore, agree with the decision of the Madhya Pradesh High Court that the period from the cause of action till the institution of appellate or revisional proceedings from original proceedings which prove to be abortive are also liable to exclusion under the section. The view of the Andhra Pradesh High Court is too broadly stated. The period prior to institution of the initiation of any abortive proceeding cannot be excluded for the simple reason that Section 14 does not enable a litigant to get a benefit beyond what is contemplated by the section that is to put the litigant in the same position as if the abortive proceeding had never taken place."

33. The law is also settled that the expression **Court** used in Section 14(1) of the Limitation Act includes Tribunals, with its extended meaning, as held

and interpreted in plethora of judgments of various Courts including the Hon'ble Supreme Court, as already referred to above. One significant test, as enumerated under Section 14(1) of the Limitation Act, is that the subsequent proceeding, the suit, must relate to the same matter in issue with that of the previous proceeding.

34. On a meaningful and conjoint reading of Section 8 and 9 of IBC, it appears to this Court that the only pre-condition for a proceeding under **Section 9 of IBC** is ***occurrence of default***. On a meaningful reading of the statements made in the instant plaint, it appears to this Court that the plaintiff seeks to sue the defendants claiming a money decree on ***occurrence of default***. Thus, the core issue in the instant suit would be ***whether there has been any occurrence of default on the part of the defendants in paying off the dues of the plaintiff, as claimed in the plaint***. The issue in the instant suit is therefore the **same matter in issue** in the previously instituted proceeding under **Section 9 of IBC**.

35. ***In the matter of: HPCL Bio-Fuels Limited (supra)*** the judgment was rendered under **Section 14(2)** of the Limitation Act scenario, where the subsequent proceeding was an **application** filed under **Section 11 of the Arbitration Act**. The reliefs claimed under Section 11 of the Arbitration Act were not same as that of the previous proceeding filed under Section 9 of IBC. Hence, the ratio laid down in the said judgment would not apply in the facts and circumstances of this case.

36. In as much as, the record shows that since the right accrued in favour of the plaintiff, the plaintiff was diligent and had filed the said Section 9 proceeding before the jurisdictional NCLT. The said previous proceeding was

dismissed by the jurisdictional NCLT on the jurisdictional ground, as already discussed above. This Court finds that there was neither any lack of diligence nor was any negligence on the part of the plaintiff in pursuing its remedy, at any point of time. Immediately after the order of dismissal passed by the NCLT, the plaintiff had instituted the instant suit within a span of less than three months.

37. In view of the foregoing reasons and discussions, this Court holds that the instant plaint has **successfully qualified** the **tests** laid down under **sub-Section (1) to Section 14** of the **Limitation Act, 1963**. The relevant period during which the said proceeding under Section 9 of IBC was pending stands excluded in aid of institution of the instant civil suit.

38. Resultantly, the instant plaint being **C.S. (COM) 171/2025** stands **admitted**, subject to scrutiny by the department.

(Aniruddha Roy, J.)