

Thought of a balance
due from one



**ASSIGN
BUSTER**

Though the Article 26 is applicable to all suits of recovery of money on account as per the description of suit (first column), yet it is limited to cases where the accounts are stated in writing signed by the defendant or his agent — so it will not apply to cases when the accounts are stated verbally.

In the words of Lord Atkin, “ an account stated” may be described as “ an account which contains entries on both sides, and in which the parties who have stated the account between them have agreed that the item on one side should be set against the items upon the other side and the balance only should be paid; the items on the smaller side are set off and deemed to be paid by the items on the larger side, and there is a promise for good consideration to pay the balance arising from the fact that the items have been set off and paid in the way described.” In Wharton’s Law Lexicon, the expression “ account stated” is defined as: “ An account stated is the admission of a balance due from one party to another and on balance due there is a debt, the statement of account and the admission of the balance supplies a promise in law to pay it. In *Gordon Waodroffe & Co.*

v. Staik M. A. Majid & Co., (AIR 1967 SC 181), the Supreme Court has held more than one meaning for the expression ‘ account stated’: (i) it sometimes means a claim to payment made by one party and admitted by another party to be correct; (ii) an account may also be stated when the account contains items of both credit and debit and the figures on both sides are adjusted between the parties and a balance struck; (iii) the accounts are settled or stated if they are submitted by one party, and accepted by the other; (iv) the account submitted need not be in writing and the acceptance may be inferred by conduct.

In *State of Bihar v. Ram Ballav*, (AIR 1960 Pat. 400), it has been held that the essence of an account stated is the fact that there are cross items of account and that the parties mutually agree as to the several accounts of each and by treating the items so agreed on one side as discharging the items on the other side pro tanto and to go on to agree that the balance only is payable.

In *Durga Prasad v. Fateh Chand*, (AIR 1968 Cal.

292), the Calcutta High Court has held that the account stated can take form of a mere acknowledgement, but other elements being present a document does not cease to be an account stated because it does not contain entries on both sides. When the accounts have not been finally settled Art. 26 will not be attracted.

Article 26 applies only when the account is stated in writing and signed.