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

\+ CM(M) 2732/2024 & CM APPL. 33768/2024

SANDEEP GOEL .....Petitioner

Through: Mr. Abhinav Garg, Advocate with Mr. Mihir Gujjewar and Ms. Bhavya Saxena, Advocates.

versus

JUGAL KISHOR TOSHNIWAL .....Respondent

Through:

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\+ CM(M) 2739/2024 & CM APPL. 33831/2024

DEEPIKA GUPTA .....Petitioner

Through: Mr. Abhinav Garg, Advocate with Mr. Mihir Gujjewar and Ms. Bhavya Saxena, Advocates.

versus

SH. JUGAL KISHOR TOSHNIWAL .....Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE AJAY DIGPAUL

<u>JUDGMENT (ORAL)</u>

% **29.07.2026**

1. The present petitions, preferred by the petitioners/respective defendants assail the orders dated 29.04.2024 passed by the learned District Judge (Commercial Court), North District, Rohini Courts, Delhi, whereby their respective applications under Order VIII Rule 1 read with Section 151 of the Code of Civil Procedure, 1908[1], seeking condonation of delay in filing the written statements, were dismissed. Consequently, the written

[1] hereinafter "CPC"

statements were taken off the record and the defence of the petitioners was struck off.

2. It is pertinent to mention that the summons in the respective suits were served upon the petitioners on 23.01.2024 and the written statements, accompanied by applications seeking condonation of delay, were filed on 27.04.2024. The delay beyond the prescribed period of 30 days was stated to be 64 days.

3. Learned counsel for the petitioners submits that the claims in the suits arise from commercial transactions pertaining to the years 2022-2023. It is contended that, for the purpose of preparing comprehensive written statements, the petitioners were required to collect and examine their books of accounts, invoices, GST records and other relevant documents. This exercise consumed considerable time and resulted in the delay.

4. Learned counsel for the petitioners further submits that the written statements were filed within the outer limit of 120 days prescribed under Order VIII Rule 1 CPC, as applicable to commercial disputes. The delay of 64 days beyond the initial period of 30 days was, therefore, within the further period of 90 days during which the Court was competent to extend the time for filing the written statements. It is submitted that the delay was neither deliberate nor intended to obstruct the proceedings and should have been condoned by the learned Commercial Court.

5. *Per contra*, learned counsel for the respondent submits that the petitioners were aware, well before the institution of the present suits, that recovery proceedings were likely to be initiated against them. In this regard, reliance is placed upon the legal demand notices dated 22.03.2023 issued to the respective petitioners.

6. Learned counsel for the respondent further submits that the plea of collecting documents taken by the petitioners is wholly general and unsupported by any material. The petitioners neither identified the documents which were allegedly awaited nor disclosed the steps taken or the dates on which such steps were taken. It is, therefore, contended that no satisfactory explanation covering the period of delay, was placed before the learned Commercial Court.

7. Heard learned counsel for the parties and perused the record.

8. In a commercial suit, the defendant is required to file the written statement within 30 days from the date of service of summons. The Court may permit the written statement to be filed beyond the said period, for reasons to be recorded in writing and on payment of such costs as it deems fit, provided that the written statement is filed within 120 days from the date of service of summons. The mere fact that a written statement has been filed within the outer limit of 120 days does not, however, confer an unconditional right upon the defendant to have it taken on record. The defendant is still required to furnish a satisfactory explanation for not filing the written statement within the prescribed period of 30 days.

9. In the present matter, the only explanation furnished was that the petitioners required time to check and arrange their books of accounts, invoices and GST forms. The condonation applications before the learned Court do not specify the particular records which were required to be collected, the persons from whom such records were to be obtained, the steps taken for their collection, or the circumstances which prevented the petitioners from filing the written statements within the prescribed period.

10. The transactions forming the subject matter of the respective suits had

concluded prior to the institution of the suits. The demand notices were issued to the petitioners on 22.03.2023, substantially before service of summons upon them on 23.01.2024. Thus, the petitioners were aware that claims arising from the said commercial dealings had been raised against them and that legal proceedings were likely to follow. Despite such prior knowledge, no material was placed before the learned Commercial Court to demonstrate that any timely or diligent steps were taken to collect the relevant records.

11. It is also pertinent that the defence pleaded by the petitioners is that, after accounting for payments made through banking channels, the remaining outstanding amount of approximately ₹4,25,000/- was paid to the respondent in cash. In these circumstances, the general assertion that extensive time was required for collecting books of accounts, invoices and GST records does not, in the absence of supporting particulars, satisfactorily explain the delay in filing the written statements.

12. Although the written statements were filed before the expiry of the outer limit of 120 days, the discretion to extend the time beyond the initial period of 30 days could be exercised only upon sufficient cause being shown. The learned Commercial Court considered the explanation offered by the petitioners and found it to be vague, general and insufficient. The view so taken cannot be said to suffer from any patent illegality, perversity or jurisdictional error warranting interference in exercise of the supervisory jurisdiction of this Court.

13. It is well settled that the mere fact that a written statement has been filed before expiry of the outer limit of 120 days does not confer upon the defendant an entitlement to have the delay condoned. The Division Bench of

this Court in ***Sunil Sahoo v. Anoop Kumar Jain***[2], has held that extension of time beyond the prescribed period of 30 days cannot be granted as a matter of routine or on mere asking. The defendant is required to disclose a justifiable cause for its inability to file the written statement within the initial period of 30 days, and any extension can be granted only for reasons recorded in writing. The existence of the outer limit of 120 days merely preserves the Court's discretion during the extended period and it does not dispense with the requirement of showing sufficient and satisfactory cause. The relevant paragraph from the aforesaid judgment of this Court is reproduced as under:

> "12. In ***Kailash v. Nankhu & Ors.***, (2005) 4 SCC 480, the Supreme Court while holding the provisions of Order VIII Rule 1 applicable to ordinary civil suits as directory in character and not mandatory, had held that it is only in exceptional situations that the Court may extend the time for filing the written statement though the period of 30 days and 90 days (as applicable to ordinary suits) has expired; the judge trying the case must handle the prayer for adjournment with firmness and the defendant seeking extension of time beyond the limit laid down by the provision may not ordinarily be shown indulgence; ordinarily, the time schedule prescribed by Order VIII Rule 1 has to be honoured; the defendant should be vigilant and file the written statement on the appointed date of hearing without waiting for the arrival of the date appointed in the summons for his appearance in the Court; the extension of time sought for by the defendant from the Court, whether within 30 days or 90 days, as the case may be, should not be granted just as a matter of routine and merely for the asking, but only by way of an exception and for reasons assigned by the defendant and also recorded in writing by the Court to its satisfaction. The reasons must be beyond the control of the defendant and such extension must be required in the interest of justice; and grave injustice would be required to be shown to occasion if the time was not extended."

14. Accordingly, this Court finds no ground to interfere with the impugned orders dated 29.04.2024 passed by the learned Trial Court in CS

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[2] **FAO (COMM) 110/2021**

(COMM) 585/2023 and CS (COMM) 586/2023.

15. Accordingly, the present petitions are dismissed. The interim direction contained in paragraph 6 of the order dated 30.05.2024 stands vacated. The learned Trial Court shall be at liberty to proceed further in accordance with law.

16. All pending applications also stand disposed of.

AJAY DIGPAUL, J

JULY 29, 2026
Sk/yr