

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO. 729 OF 2015
IN
SUIT NO. 2198 OF 2010**

M/s.Emcees Commercial Company .. Applicant/Defendant

In the matter between :

Norfoods Sweden AB .. Plaintiff

Vs.

M/s.Emcees Commercial Company .. Defendant

None for plaintiff.

Mr.Bharat Puneekar for defendant-applicant.

**CORAM : K.R.SHRIRAM, J.
DATED : 9TH OCTOBER, 2015**

P.C.

1 This notice of motion is taken out on behalf of the applicant-defendant to condone the delay of 180 days in taking out the notice of motion to recall the order dated 26.09.2014 and allow the defendant to file its written statement. The counsel states that they have served a copy of this notice of motion upon the advocate for the plaintiff on 6.08.2015 and undertakes to file affidavit of service within one week from today. The undertaking accepted.

2 I have considered the explanation given in the affidavit in support. Though the applicant has stated he was away from India and in America from 26.08.2014 and 28.08.2014, there is no explanation as to why the written statement was not filed earlier or after 26.09.2014 till date. Nevertheless, I am inclined to grant one opportunity to the defendant. The defendant to file the written statement and serve copy thereof upon the plaintiff on or before 23.10.2015. It is made clear that no further time will be granted and the suit will proceed ex-parte.

3 Stand over to 26.10.2015 for directions.

(K.R. SHRIRAM, J.)