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

+ CM(M) 358/2016

M/S DIAMOND ENTERPRISES & CONSTRUCTION

..... Petitioner

Through Mr.Ashok Chhabra, Adv.

versus

M/S PERFECT ENGINEERING ASSOCIATES

..... Respondent

Through Nemo.

**CORAM:**

**HON'BLE MS. JUSTICE INDERMEET KAUR**

**ORDER**

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**22.04.2016**

**C.M. No.14219/2016 (exemption)**

Exemption is allowed subject to just exceptions. Application disposed of.

**CM(M) 358/2016 & C.M. No.14218/2016 (stay)**

Petitioner is aggrieved by the order dated 08.02.2016 vide which his application seeking setting side of order dated 10.12.2015 was declined. Vide order dated 10.12.2015 his right to file written had been closed and his defence had been struck off.

Record shows that the present suit is a suit for recovery. The defendant had been served for 16.8.2015; legible documents were, however, supplied to the petitioner/defendant only on 20.8.2015. Written statement was filed on 10.11.2015. Record further discloses that the contention of the petitioner/defendant before the Trial Court

was that the written statement had to be got signed from the Authorized Representative of the defendant at Calcutta and this was the reason why delay had occurred in filing the written statement. There was no effective communication between the advocate and the client. The Trial Court had noted this fact but had noted that this conduct of the defendant was casual and had thus disallowed the written statement to be taken on record.

Learned counsel for the petitioner submits that a valuable right would be lost to him in case he is now allowed to plead his defence. He has a good case on merits. Noting this submission of the learned counsel for the petitioner as also the fact that from the date of service (20.8.2015) and the written statement having been filed on 10.11.2015 which would be outside the stipulated period of 30 days but within the extended period of 90 days and the explanation as furnished by the learned counsel for the petitioner/defendant impugned order is set aside and the written statement already filed by the petitioner/defendant in the Trial Court is permitted to be taken on record.

This order is passed subject to payment of Rs.25,000/- as costs.

Petition disposed of.

Order dasti under signatures of the Court Master.

**INDERMEET KAUR, J**

**APRIL 22, 2016**

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