

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
NOTICE OF MOTION NO. 411 OF 2017
IN
COMMERCIAL SUMMARY SUIT NO. 96 OF 2016**

M/s. Petal Infosystems Private Limited ...Applicant

IN THE MATTER BETWEEN

Mphasis Limited ...Plaintiff

V/s.

M/s. Petal Infosystems Private Limited ...Defendant

Mr. Manish Doshi a/w. Mr. Ashwin Poojari I/b. M/s. Vimadalal & Co.
for Plaintiff.

Mr. Rajendra Jain I/b. Thakore Jariwala & Associates for
Defendant/Applicant.

CORAM : S.C. GUPTE, J.

DATE : 07 MARCH, 2018.

P.C. :-

1. Heard learned counsel for the parties.
2. The notice of motion is taken out by the Defendant for
condonation of delay in entering the appearance. The delay is said to

be of 46 days. The explanation is that there was a delay on the part of Defendant in handing over the vakalatnama to the advocate, as the Defendant was out of town. Defendant is a Private Limited Company. It is difficult to see how a Private Limited Company can be out of town. This Court is now informed that the representative of the Defendant-Company was out of town.

3. Be that as it may, that is really no excuse. Besides, learned counsel for the Plaintiff has taken me through the circumstances in which the Defendant appears to have evaded the service. Learned counsel for the Plaintiff in the premises, seriously opposes the application. However, in the interest of justice, this Court is of the view that the delay should be condoned though with costs.

4. Accordingly, the notice of motion is made absolute in terms of prayer clause (a) and (b). Defendant-Applicant shall pay costs of this notice of motion quantified at Rs. 25,000/-.

(S.C. GUPTE, J.)