

Date of Decision: 17th July, 2023

... Applicant

... Respondent

Present: Mr. Ashish Gupta, Advocate for the applicant.

CRM-41079-2016

5. On presentation the cheque was returned vide memo dated 16.5.2014 (wrongly written as 16.5.2010) with the remarks 'fund insufficient' and 'drawer's signature differs.' The applicant served notice under Section 138 of the Negotiable Instruments Act, 1881 (for

short 'the Act') and thereafter, filed a complaint. The complaint was dismissed on the ground that the notice was issued beyond the time period stipulated under Section 138 of the Act.

6. Learned counsel for the applicant submits that there was only one day delay in issuing the notice.

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

8. The legal position is not being disputed that notice under second proviso to Section 138 of the Act is to be issued within thirty days and the applicant failed to do so.

9. In such circumstances, no interference is called for in absence of any factum or legal issue.

10. Accordingly, appeal is dismissed.

11. Since the main case has been dismissed the pending application(s), if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

17th July, 2023
anuradha

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No