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

Date of decision:01.08.2023

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+ CM(M) 821/2023

**M S KAVITRA EXPORTS PVT LTD THROUGH ITS DIRECTOR
SH AMAN BANSAL** Petitioner

Through: Mr. Vishesh Wadhwa, Advocate
(Through VC)

versus

**M S KAAYA U K LTD THROUGH ITS DIRECTOR SH
PURSHOTTAM LAL** Respondent

Through: None

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+ CM(M) 825/2023

M/S KAVITRA EXPORTS PVT LTD THROUGH ITS DIRECTOR Petitioner

Through: Mr. Vishesh Wadhwa, Advocate
(Through VC)

versus

M/S KAAYA U K LTD AND ORS Respondents

Through: None

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+ CM(M) 826/2023

M/S KAVITRA EXPORTS PVT LTD THROUGH ITS DIRECTOR Petitioner

Through: Mr. Vishesh Wadhwa, Advocate
(Through VC)



versus

M/S KAAYA U K LTD AND ANR

..... Respondents

Through: None

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

CM APPL. 25678/2023 in CM (M) 821/2023(for exemption)

CM APPL. 25736/2023 in CM (M) 825/2023(for exemption)

CM APPL. 25769/2023 in CM (M) 826/2023(for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present applications stand disposed of.

CM (M) 821/2023

CM (M) 825/2023

CM (M) 826/2023

1. These petitions filed under Article 227 of the Constitution of India impugn a common order dated 23.01.2023 passed by the Additional District Judge- 02, Shahdara, Karkardooma District Courts, Delhi ('Trial Court') whereby the Petitioner's applications filed under Order VII Rule 14(3) of the Civil Procedure Code, 1908 ('CPC') for placing on record additional documents have been dismissed by the Trial Court.

1.1. The Petitioners herein has instituted three (3) separate suits for the recovery of money and have similarly instituted three (3) complaints under Section 138 of Negotiable Instrument Act, 1881 ('N.I Act') against the Respondent No. 1, company and other Respondents.

1.2. For the sake of convenience, the facts set out for CM (M) 821/2023 are being referred to. The Petitioner herein is the original plaintiff and the



Respondents are the original defendants in civil suit no. 39/2017 titled as **M/S Kavitra Exports Pvt. Ltd. v. M/S Kaaya U.K. Ltd & Ors.**,

2. The learned counsel for the Petitioner states that at the stage of leading plaintiff's evidence, before the first witness was cross-examined, the Petitioners filed the application on 25.11.2017 under Order VII Rule 14(3) of the CPC for placing on record additional documents, details whereof as filed in this petition, are as under:

S.NO	PARTICULARS	PAGE NO
1.	Copy of invoices, Bills of Ledger/AWB, Custom Shipping Bills w.e.f 01.04.2010 to 31.03.2011	1-216
2.	Copy of invoices, Bills of Ledger/AWB, Custom Shipping Bills w.e.f 01.04.2011 to 31.03.2012	217-408
3.	Copy of invoices, Bills of Ledger/AWB, Custom Shipping Bills w.e.f 01.04.2012 to 31.03.2013	409-437
4.	Copy of Purchase Ledger YE 31.08.2014 sent by Accused Through his Accountant alongwith the E-mail	438-455
5.	Copy of Purchase Ledger YE 31.08.2013 sent by Accused Through his Accountant alongwith the E-mail	456-474

2.1. He states that simultaneously applications were also filed in the criminal complaints filed under Section 137 of N.I Act for bringing the said documents on record in the criminal proceedings. He states that the delay in filing the said documents was condoned by a Coordinate Bench of this Court



vide order dated 11.10.2022 passed in **CrL. M.C. No. 2193/2022** titled as **M/S Kavitra Exports Pvt Ltd. Through Director/AR Aman Bansal v. State NCT Of Delhi and Anr.** which reads as under:

“1. Petition has been preferred on behalf of the petitioner under Section 482 Cr.P.C. for setting the aside of order dated 26.07.2021 passed by the learned MM, District East, Karkardooma Courts, Delhi in complaint case No. 58433/2016 titled M/s Kavitra Exports Pvt. Ltd. Vs. M/s Kaavya U.K. Ltd. whereby the application under Section 311 Cr.PC filed on behalf of the complainant/petitioner for filing of additional documents on record and examination of Gautam Lal Bansal to prove the documents was dismissed.

2. Learned counsel for the petitioner submits that only witness Gautam Lal Bansal is to be examined on behalf of the petitioner to prove on record the relevant documents, which have been filed along with the application under Section 311 Cr.PC.

3. At this stage, the application under Section 311 Cr.P.C. filed on behalf of the petitioner is not opposed by learned counsel for respondent No. 2. However, it is prayed that the learned Trial Court may be directed to conclude the proceedings in a time bound manner to avoid any further delay.

3. I am of the considered opinion that the power conferred under Section 311 Cr.PC needs to be invoked by the Court in order to meet the ends of justice. Considering the facts and circumstances and in view of no objection of learned counsel for respondent No. 2, the order passed by the learned Trial Court is set aside. Petitioner is permitted to examine Gautam Lal Bansal and bring on record the relevant documents, as referred in the application under Section 311 Cr.PC.

Learned Trial Court is further directed to make an endeavour to dispose of the proceedings in a time bound manner, preferably within a period of four months from the date of receipt of this order.

Petition is accordingly disposed of.

A copy of this order be forwarded to the learned Trial Court for information and compliance.”

2.2. He states that the non-filing of the said documents at an earlier stage was a *bona fide* mistake. He states that as is evident from the documents, the documents at serial no. 4 and 5 were in fact emailed by the Accountant of the Respondents to the Petitioner herein and have therefore, originated from the Respondent.

2.3. He similarly states that with respect to the documents at serial nos. 1, 2 and 3, the said documents are also available in the record of the concerned



Ministry and Customs Department at the Airports since the said documents were scrutinized and bear the stamps of the Government of India through their concerned Ministries and Custom authorities.

2.4. He states that these additional documents are important to be taken on record for fair adjudication of the civil suit as it will assist the Trial Court to corroborate the transactions between Respondent No.1, company and the Petitioner Company.

2.5. He further states, however, the genuineness of the said documents will also be duly tested during the course of evidence however, excluding the said evidence at this stage will cause grave prejudice to the Petitioner.

2.6. He states that the delay caused due to the late filing of the documents may be compensated to the Respondents by imposing legal costs.

3. None appears on behalf of the Respondent despite advance service in the petition.

4. This Court has perused the petition and considered the submission of the counsel for the Petitioner.

5. A perusal of the order dated 11.10.2022 passed by a Coordinate bench in CrL. M.C. No. 2193/2022, shows that the Respondents gave their no objection to the said additional documents being brought on record in the criminal proceedings.

6. The documents as contended by the Petitioner have either originated from the Respondent or form part of the record of the statutory authorities and will therefore, be duly verified during trial. In view of the fact that the evidence of the first witness of the Petitioner has not been tendered, no prejudice will be caused to the Respondent, if the additional documents are permitted to brought on record. The Respondent will have sufficient



opportunity to cross-examine the Petitioner on the said documents. The Respondent can be compensated by imposing legal costs for the delay in filing the said additional documents.

7. This Court deems it appropriate to allow the present petitions subject to the Petitioner herein paying costs of Rs 20,000/- in each of the civil suits to the Respondents on or before 03.08.2023, i.e., the date already fixed before the Trial Court.

8. The Petitioner is directed to file his amended affidavit by way of evidence of PW-1, Mr. Aman Bansal for tendering these additional documents within a period of one (1) week.

9. It is clarified that the question whether, the said documents are admissible will be decided by the Trial Court as and when the issue is raised by the Respondent in the trial. It is made clear that this Court has not examined the veracity of these documents or their admissibility as the said issues have not arisen for consideration in the impugned order.

10. With the aforesaid directions, the present petitions are allowed and the impugned orders are set aside.

MANMEET PRITAM SINGH ARORA, J

AUGUST 1, 2023/hp/ms