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

Date of decision: 21.11.2023

+ **CM(M) 1562/2023 & CM APPL. 49309/2023**

DR NEERAJ SAHNI Petitioner

Through: Mr. S.S. Dhir, Advocate
versus

DENTSPLY INDIA PVT LTD Respondent

Through: Mr. Vishwendra Verma Shivali,
Advocate

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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):

1. This petition filed under Article 227 of Constitution of India impugns the order dated 05.08.2023 passed by the District Judge (Commercial)-03, West District, Tis Hazari Courts, Delhi ('Trial Court') in CS (COMM) No. 396/2021, titled as '**M/s Dentsply India Pvt. Ltd. v. Dr. Neeraj Sahni**', whereby the Trial Court dismissed the Petitioner's application filed under Order VIII Rule 1 of Code of Civil Procedure, 1908 ('CPC') and struck off his defense on the ground that the written statement is not accompanied with an application seeking condonation of delay.
2. The Petitioner is the defendant and the Respondent is the plaintiff in the commercial suit filed for recovery of Rs. 17,39,113/-
3. After some arguments, with the consent of the parties, the impugned



order dated 05.08.2023 is set aside subject to Petitioner paying costs of Rs. 15,000/- to the Respondent within one (1) week.

4. Since, the Trial Court has struck off the defense of the Petitioner on the ground of non-filing of application seeking condonation of delay in filing of written statement, it would be instructive to refer to the judgment of Coordinate Bench of this Court in ***Sundeeep Bhupinder Singh and Anr. v. Oxon Technology Private Limited and Others, 2022 SCC OnLine Del 3127***. The Court in the said judgment in similar circumstances, relying on the judgment of Supreme Court in ***A.P. Distributors v. Ok Play India (P) Ltd., 2022 SCC OnLine SC 1512***, allowed the written statement to be taken on record filed within 120 days and not accompanied with application seeking condonation of delay.

5. In view of the aforesaid and subject to the payment of aforesaid costs, the Trial Court is directed to take the written statement along with the statement of truth and affidavit of admission/denial of documents on record.

6. The Respondents will file his replication along with the affidavit of admission/denial of documents on or before 13.12.2023.

7. It is made clear that if the Petitioner defaults in making payment of costs, then the order dated 05.08.2023 shall come into operation.

8. With the aforesaid directions, the present petition is allowed. Pending application is disposed of.

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 21, 2023/msh/aa

[Click here to check corrigendum, if any](#)