

Items 4. 12-12-2024

sg Ct. 37

**In The High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side
Commercial Division**

**FMAT 451 of 2024
CAN 1 of 2024**

Infinity Vinayak Infra Projects LLP
Versus
Ashth Vinayak Infra Projects LLP & Anr.

Mr. Somnath Gangopadhyay
...for the appellant

Mr. Anales Ray, Sr. Adv.
Mr. Subhro Kanti Roy Chowdhury
Ms. Mousumi Bhowal
...for the respondents

1. The affidavit of service filed in Court is taken on record.
2. The appeal is arising out of an order dated 1st October, 2024 passed by the learned Judge, Commercial Court at Alipore in connection with an application for acceptance of the written statement intended to be filed beyond 30 days and within 120 days.
3. It appears from record that the written statement with the counter claim was uploaded on 8th June, 2024 along with proper court fees for the counter claim. It prima facie appears that it was uploaded in the portal designated by the learned Court for acceptance of pleadings. However, having regard to the fact that any attempt to file the written statement beyond 30 days requires acceptance of the court by condoning the delay and an application for condonation of delay was also uploaded

in the portal of the learned Commercial Court on 8th June, 2024 and having regard to the fact that 8th June, 2024 and 9th June, 2024 were holidays, the matter was listed on 10th June, 2024 being the date already fixed for filing of the written statement, the prayer for acceptance of the written statement should be considered after taking into consideration such fact.

4. In the aforesaid facts and circumstances of the case, it cannot be contended that the written statement could not be accepted on 10th June, 2024 having regard to the fact that 8th June and 9th June, 2024 were holidays and admittedly, the written statement with the counter claim was uploaded in the portal on 8th June, 2024. Having regard to the stringent provisions with regard to filing of the written statement, the Court, in our view, ought to have accepted the written statement on 10th June, 2024 keeping in mind the aforesaid factors.

5. On such consideration, we set aside the order impugned and direct the learned Commercial Court to accept the written statement uploaded on 8th June, 2024 along with the counter claim.

6. With the above direction, the appeal and the application are accordingly, disposed of.

7. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Soumen Sen, J.)

(Biswaroop Chowdhury, J.)