

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-47725-2023 and CRM-A-1601-2023 (O&M)

Date of Decision: 23.10.2024

CEAT Ltd.

... Applicant

VS.

M/s Dahiya Traders & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr.SS Chatrath, Advocate and
Mr. Rudresh, Advocate for the applicant

Mr. SS Pannu, DAG Haryana

Sandeep Moudgil, J.

CRM-47725-2023

For the reasons mentioned in the application, the same is allowed
and the delay of 253 days in filing the appeal is condoned.

CRM stands disposed of.

Main case

(1). This application under Section 378(4) CrPC has been filed by the applicant/appellant seeking permission to file an appeal against the judgment and order dated 23.11.2022 passed by the JMIC, Chandigarh vide which the complaint No.NACT-68-2020 filed by the complainant under Sections 138/142 of the Negotiable Instruments Act, 1881 (in short, the 1881 Act) read with Section 406/420 IPC has been dismissed for non-prosecution.

(2). The allegations are that a complaint was filed by the applicant/appellant under Section 138 r/w Section 142 of the Negotiable Instruments Act, 1881 (in short, the 1881 Act) wherein the respondent placed orders for supply of goods from the applicant's company which deals in the business of manufacture and sale of tyres and tubes etc. This, allegedly,

resulted in outstanding balance against the respondent of Rs.6,90,828.16. The respondent issued a cheque dated 29.10.2019 which on presentation, could not be honoured due to insufficient funds. A legal notice dated 13.11.2019 was served through registered post which remained unresponded by the respondent. Therefore, the applicant filed the present complaint on 26.12.2019.

(3). The orders dated 23.11.2022 passed by the lower court shows that since none appeared on behalf of the complainant or his counsel, the matter was ordered to be put up after lunch for awaiting appearance of the complainant. Thereafter also, till 4.20 pm, none appeared and considering the fact that the complaint was filed in the year 2020 and was at the initial stage when the complainant himself has chosen not to appear before it, the trial court, though rightly came to the conclusion that the petitioner is lingering the case from so long and dismissed the same for want of prosecution.

(4). Though there is nothing substantial averment coming forth in the petition, however, in the interest of justice and considering the prayer made by counsel for the applicant to give one last opportunity to the complainant to appear before the lower court, this application is allowed; the impugned order(s) dated 23.11.2022 is set aside and the matter is remanded back to the trial court to decide the same afresh on merits after giving sufficient opportunities to the parties to lead their respective evidence, in accordance with law.

(5). Ordered accordingly.

23.10.2024

V.Vishal

1. Whether speaking/reasoned?

2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No

Yes/No