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

+ **C.R.P. 34/2024**

VARAHI DIAMONDS AND FINANCE LTD. Petitioner
Through: **Mr. Apoorv Agarwal and Ms.**
Divya Verma, Advs.

versus

MS ND DIAMONDS Respondent
Through: **None.**

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER
08.04.2024

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CM APPL. 5232/2024

1. This is an application moved on behalf of the applicant/petitioner seeking condonation of delay of 60 days in filing the present civil revision petition.

2. For the reasons stated in the application and in the interest of justice, the same is allowed. Delay of 60 days in filing the present civil revision petition is condoned.

3. The application stands disposed of.

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4. Petitioner, who is plaintiff in the suit instituted by it against the respondent/defendant, assails the impugned order dated 21.08.2023 passed by learned Civil Judge-02, Central District, Tis Hazari Courts, New Delhi, whereby the suit has been dismissed for non-prosecution for the failure on the part of the authorized representative to appear in the matter.



5. None is present for the respondent despite sending advance notice.
6. Learned counsel for the petitioner has urged that the suit was wrongly filed by the petitioner as an ordinary civil suit, whereas the cause of action was one which was falling within the ambit of the Commercial Courts Act, 2015 since it is the case of the petitioner/plaintiff that the petitioner/company had entrusted some gold to the respondent for the purpose of making jewellery items.
7. Evidently, the suit filed by the petitioner/company is governed by Section 2(1)(c)(i)(ii)(viii)(ix) and (xviii) of the Commercial Courts Act, 2015. In view of such matter, finding sufficient explanation, the impugned order dated 21.08.2023 is hereby set aside and the same is directed to be restored to its original number and position.
8. The petitioner/plaintiff shall appear before the learned Trial Court on 22.04.2024 on which date, they shall be at liberty to withdraw the suit with leave to file a fresh commercial suit, subject to just exceptions under the law.
9. Revision petition stands disposed of accordingly.

DHARMESH SHARMA, J.

APRIL 8, 2024/ck