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

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Decision delivered on: 14.02.2024

+ **FAO (COMM) 31/2024 & CM Nos.8863-64/2024**

MURTAZA GHEEWALA Appellant

Through: Mr Abhishek Verma, Adv.

versus

M/S DEEWAN CHAND OM PRAKASH Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE AMIT BANSAL

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

CM No.8863/2024

1. Allowed, subject to just exceptions.

FAO (COMM) 31/2024 & CM No.8864/2024 *[Application filed on behalf of the appellant seeking condonation of delay of 31 days in filing the appeal]*

2. This appeal is directed against the judgment and order dated 10.10.2023 whereby the appellant's/defendant's review petition was dismissed.

3. The appellant/defendant had sought review of the order dated 14.03.2023 passed by the learned District Judge (Commercial Court)-04, Central Delhi.

4. A perusal of the order dated 14.03.2023 would show that the



appellant/defendant had put in an appearance *via* counsel on 27.09.2022 and up till that date, the written statement had not been filed.

5. Having regard to the fact that more than 120 days had passed, the learned District Judge, in effect, closed the right of the appellant/defendant to file the written statement. It is this order *qua* which the review petition was filed, which was dismissed *via* the impugned judgment and order.

6. The fact that 120 days had passed since service was effected on the appellant/defendant is not disputed.

7. Learned counsel for the appellant says that there were various reasons as to why the written statement could not be filed within 120 days, including the fact that the appellant/defendant resides in Mumbai.

8. We may note that even this appeal is filed after a delay of 31 days.

9. Since presently no leeway is available with the court, the impugned judgment and order cannot be interdicted.

10. The appeal is, accordingly, dismissed.

11. Consequently, the pending application shall stand closed.

12. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J

AMIT BANSAL, J

FEBRUARY 14, 2024

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