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

+ **RFA(COMM) 266/2023 and CM No.60443/2023**

M/S PRETTY ELECTRICALS INDIA PVT.
LTD. & ORS.

..... Appellants

Through: Mr Vivek Kumar, Advocate.

versus

UTSAV BANSAL

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

06.02.2024

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CM No. 60445/2023

1. The appellants have filed the present application seeking condonation of delay of 311 (three hundred and eleven) days in filing the above-captioned appeal, which is directed against a judgment and decree dated 24.12.2022 (hereafter '**the impugned judgment**') in CS (COMM) 170/2022 captioned *Utsav Bansal v M/s Pretty Electricals India Pvt. Ltd. and Ors.*

2. The respondent had preferred the aforementioned suit for recovery of an amount of ₹10,45,558/- along with interest at the rate of 24% per annum.

3. Appellant no.1 is an incorporated company and appellant nos.2 and 3 are its directors.

4. The respondent had claimed that the appellants (who were arrayed as defendants in CS (COMM) 170/2022) had approached the respondent in the



year 2017 for purchase of brass electric parts. It was claimed that the said goods were supplied to them and they had raised invoices from time to time. The respondent claimed that the running account indicated a cumulative debit balance of ₹10,45,558/-. The same was on account of 19 (nineteen) invoices, which the respondent claimed, were unpaid.

5. The learned Commercial Court had examined the evidence and decreed the suit for a sum of ₹10,45,558/- along with interest at the rate of 9% per annum from 03.03.2022.

6. The appellants have sought to explain the delay in filing the appeal on the ground that the appellants had shifted from the tenanted premises in Delhi to a place in the State of West Bengal. It is further stated that the mother of the authorised representative of appellant no.1 company was unwell and therefore, the appellants did not take timely steps for filing the appeal.

7. The present appeal was filed after the appellants were served with notices in the execution proceedings initiated by the respondent.

8. The above-captioned appeal was required to be filed within a period of sixty days of the impugned judgment. Undeniably, the delay in filing the appeal is significant. The appellants have not provided any explanation for delay on a day-to-day basis but had broadly indicated that the delay was on account of the appellants shifting to the State of West Bengal.

9. There is no material on record to show that the registered office of appellant no.1 company was shifted from Delhi to West Bengal. Whilst,



medical reasons may in given cases justify delay in filing the appeal, but it must be established that the same had prevented the person from filing the appeal within the stipulated time. In the facts of the present case, the delay of 311 days cannot be countenanced.

10. In matters involving commercial disputes, the parties are required to adhere to a strict timeline. One of the objects of the Commercial Courts Act, 2015 is to ensure expeditious disposal of disputes. In the circumstances, a liberal approach in condoning delay in taking steps cannot be countenanced. In ***Government of Maharashtra (Water Resources Department) Represented by Executive Engineer v. M/s Borse Brothers Engineers and Contractors Pvt. Ltd.: (2021) 6 SCC 460***, the Supreme Court had, in the context of application under Section 5 of the Limitation Act, 1963, explained that the “sufficient cause” was elastic enough to cover inordinate delays in matters involving commercial disputes. The relevant extract of the said decision is set out below:

“58. Given the object sought to be achieved under both the Arbitration Act and the Commercial Courts Act, that is, the speedy resolution of disputes, the expression “sufficient cause” is not elastic enough to cover long delays beyond the period provided by the appeal provision itself. Besides, the expression “sufficient cause” is not itself a loose panacea for the ill pressing negligent and stale claims.

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63. Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial Courts Act, for appeals under section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or Section 13(1A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule....”



11. In the present case, we are unable to accept that the delay in filing the appeal can be condoned for the reasons as stated in the application. The same is, accordingly, dismissed. Consequently, the appeal is rejected. All pending applications are also disposed of.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

FEBRUARY 06, 2024
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