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

+ **CRL.M.C. 118/2024**

GREENLAM INDUSTRIES LTD Petitioner

Through: Mr. Samrat Sen Gupta, Adv.

versus

BHAWANI SALES CORP Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

% **05.01.2024**

CRL.M.A. 468/2024Exemption

1. Exemption allowed, subject to just exceptions.
2. The application is accordingly disposed of.

CRL.M.C. 118/2024

3. The present petition under Section 482 of the Cr.P.C. seeks the following prayers:-

“It is therefore respectfully prayed that in view of the above-mentioned submissions, facts, and circumstances, the petitioner prays this Hon'ble Court would graciously be pleased to:

A. Allow the present petition and the impugned order dated 17.11.2022 passed by the Ld. Trial Court, Shahdara District, Karkardooma Courts, Delhi in CA No. 30/2022 titled as Greenlam Industries Ltd. v. Bhawani Sales Corporation, be set aside; and,

B. An appropriate order may be passed to restore the complaint case being no. CC No. 3445/16 to its original position before the Ld. Trial Court; and C. Such further orders and directions be passed as this Hon'ble Court deems fit in the facts and circumstances of the case in the interest of justice equity and good



conscience.”

4. *Vide* the impugned order dated 17.11.2022, the revision petition filed by the petitioner alongwith application for condonation of delay of 1800 days before the learned ASJ was dismissed. In the impugned order, the learned ASJ while dismissing the application for condonation of delay also observed as under:-

“None of the grounds raised by Ld. Counsel has stood scrutiny of record. Such grounds are certainly an afterthought merely to create reasons for filing the application seeking condonation of delay. None of these grounds can be considered good enough on the standard of 'sufficient cause' as mandated by law. Hence, the present application fails due to want of sufficient cause explaining the delay of 1872 days (almost 06 years) in filing the revision petition. The application, is thus, **dismissed**.

Consequently, the revision petition u/s 397/399 Cr.P.C. cannot be admitted. The same also stands **dismissed**. In fact, the same consequence of dismissal of revision petition would follow due to another technical flaw in filing thereof. It is observed that the then Ld. ACMM/Shahdara was pleased to dismiss the complaint for non-prosecution in default. The said dismissal of a complaint case (summons triable) flows from Section 256 CLP.C., which reads as under:-

Section 256 Cr.P.C. Non-appearance or death of complainant.-

(1) If the summons has been issued on complaint, and on that day appointed for the appearance of the accused, or any day subsequent thereto to which the hearing may be adjourned, the complainant does not appear, the Magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reason he thinks it proper to adjourn the hearing of the case of some other day:

Provided that where the complainant is represented by a pleader or by the officer conducting the prosecution or where the Magistrate is of opinion that the personal attendance of the complainant is no necessary, the Magistrate may dispense with his



attendance and proceed with the case.

(2) The provisions of sub-section (1) shall, so far as may be, apply also to cases where the non-appearance of the complainant is due to his death.

The statutory provision is self explanatory. The effect of dismissal u/s 256 CLP.C. is acquittal of accused. Further, the Chapter XXX of CLP.C. dealing with Revision does not provide for any remedy of revision against an order of acquittal in a complaint case (summons triable). The only remedy lies in filing an appeal before Hon'ble Delhi High Court under Chapter XXIX. Thus, the remedy of revision petition, if moved, is not maintainable and deserves to be dismissed in limine. The present petition is no exception. As such, **the revision petition stands dismissed on that count as well.**

Disposed off in aforesaid terms.”

5. Having heard the learned counsel for the parties and perused the impugned order, this Court is of the opinion that no interference is warranted in the present matter. The learned ASJ has rightly observed that the only remedy available with the petitioner was filing an appeal before this Court under Chapter XXIX of the Cr.P.C., and the revision petition itself, was not maintainable and hence; dismissed.

6. In view of the above, the present petition is hereby dismissed and disposed of accordingly.

AMIT SHARMA, J

JANUARY 5, 2024/nk