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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
% ***Date of Decision: 15<sup>th</sup> October, 2024***

+ CM(M) 3608/2024 & CM APPL. 60365-60367/2024  
N.S. INTERIORS CONTRACTS PVT. LTD

.....Petitioner

Through: Mr. Abhinav Rathi, Advocate.

versus

KOHINOOR PAINTING WORKS

.....Respondent

Through: None.

**CORAM:**  
**HON'BLE MR. JUSTICE MANOJ JAIN**  
**JUDGMENT (oral)**

1. Petitioner is defending a commercial suit and has challenged the order dated 02.09.2024 whereby the learned Commercial Court has dismissed the application moved by the petitioner seeking condonation of delay in filing written statement.
2. None appears from the other side, despite service of advance notice.
3. Fact, however, remains that the point raised in the present petition is very short one.
4. Even as per the details mentioned in the impugned order, the defendant was served on 28.03.2024. Initially, the defendant had filed one written statement on 29.04.2024, *albeit*, the same was found not in conformity with



the relevant statutory provisions. Later on, the defendant filed written statement afresh on 26.07.2024. Such filing of written statement on 26.07.2024, is also stated to be within the outer permissible limit of 120 days.

5. Along with the aforesaid fresh written statement, an application seeking condonation of delay was also filed. However, such application has been dismissed merely on the premise that the application did not disclose the “number of days” for which the delay was being sought to be condoned. Observing that since the defendant was supposed to explain each day’s delay, such calculation was imperative, the application has been dismissed.

6. Naturally, the fall out and the consequence of dismissing such application would be extremely harsh and would seriously prejudice the defendant. The learned Trial Court could have easily granted some time to defendant to apprise about the above said information, instead of dismissing application, then and there, in the manner in which it has been done.

7. It need not be reiterated that it is not always the *length of the delay* which is the governing factor while examining any such plea. It is rather the cause for delay. It is the duty of the Court to see whether the delay falls within the scope, ambit and definition of words “*sufficient cause*” or not and if “*sufficient cause*” is shown, then irrespective of the length of delay, the same can still be condoned.

8. It is also submitted that the fresh written submission had to be filed, as the previous statement was not signed on each page and it was not accompanying the statement of truth contending that these are only procedural aspects and since procedure is handmaid of justice, any litigant



should not be made to suffer for such minor procedural infraction, while also in view of the fact that the written statement had, even otherwise, been filed within the outer permissible limit of 120 days.

9. Keeping in mind the overall facts and circumstances of the case, the present petition is disposed of while setting aside the aforesaid order dated 02.09.2024.

10. The matter is, reportedly, fixed before the learned Trial Court on 22.10.2024 for final arguments. However, in view of the above, the learned Trial Court is requested to take up the above said application seeking condonation of delay in filing written statement on said date for consideration afresh and then to proceed further with the matter, in accordance with law.

11. Needless to say, the petitioner would be at liberty to file additional affidavit specifying further details, germane for consideration of above said application.

12. Order *dasti* under the signatures of the Court Master.

**(MANOJ JAIN)**  
**JUDGE**

**OCTOBER 15, 2024/sw**