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

+ **CM(M) 3789/2024**

SHELLZ INDIA PVT LTD.

.....Petitioner

Through: Mr. Namit Suri, Ms. Purnima
Singh, Ms. Surabhi Sinha &
Ms. Amandeep Kaur, Advs.

versus

CREATIVE OFFSET PRINTERS PVT. LTD.Respondent

Through: Mr. Rishabh Gulati, Adv

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **11.11.2024**

CM APPL. 65450/2024 & CM APPL. 65451/2024 (Exemption)

Allowed, subject to all just exceptions.

Both the applications stand disposed of.

CM(M) 3789/2024 & CM APPL. 65449/2024 (stay)

1. Petition impugns the orders dated 12.09.2024 and 12.08.2024 passed by the learned District Judge (Commercial Court) in Suit bearing CS (COMM) No. 98/2024 titled "Creative Offset Printers Pvt. Ltd. Vs. Shellz India Pvt. Ltd."
2. Petitioner is the defendant in the Recovery Suit filed before the learned trial court.
3. Petitioner was served with the summons on 08.04.2024. 30 days from the receipt of summons expired on 09.04.2024, but the written statement ["WS"] was e-filed along with application for condonation of delay on 28.05.2024. Learned trial court vide order dated 29.05.2024, closed the right of the petitioner to file the WS and struck



off his defence, but granted liberty to move appropriate application seeking condonation of delay.

4. Application of the petitioner for condonation of delay for taking WS on record was allowed by the learned trial court vide order dated 12.08.2024 subject to cost of Rs. 20,000/-.

5. Petitioner did not pay the cost and rather filed an application for waiver of cost on the ground that the cost was hefty.

6. The application was dismissed by the learned trial court vide order dated 12.09.2024. Since the petitioner refused to pay the cost, WS was taken off from the record and the defence of the defendant was again struck off.

7. Learned counsel for the petitioner submits that Sh. Rajat Singhal, Authorized Representative of the petitioner, suffered from heat stroke, chest pain, vomiting and diarrhoea, for which, he sought medical intervention and was advised complete bed-rest by the doctor and due to this reason, the delay occurred in filing the WS.

8. Per contra, learned counsel for the respondent has submitted that WS was not filed within the timeline of 30 days, due to which reason, trial court had imposed cost of Rs. 20,000/-. Having not paid the cost, learned trial court had no other option except to take off from the record the WS filed by the petitioner.

9. Admittedly, petitioner did not file the WS within 30 days from the date of receipt of summons. WS was filed after a delay of 19 days but within the extended window period of 120 days. The reason explained for the delay is that petitioner was suffering from multiple ailments, due to which, he could not place the WS within 30 days time. He has placed on record the medical prescription dated 15.04.2024, whereby, the doctor advised two weeks bed-rest to the



petitioner.

10. The procedures are handmaid of justice. They should not be allowed to come in the way of the Court in imparting substantial justice. Taking into consideration the fact that there was only 19 days delay in filing the WS and that too due to ill-health of the petitioner, in the interest of justice, the petition is allowed, cost imposed is waived off and impugned orders dated 12.09.2024 & 12.08.2024 are set aside with directions to the learned trial court to take on record the WS already filed by the petitioner.

11. Petition is disposed of accordingly.

RAVINDER DUDEJA, J.

NOVEMBER 11, 2024

RM