IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE
Intellectual Property Rights Division

RVW-IPD/1/2025
IA NO: GA-COM/1/2025

DHANBAD LAB INSTRUMENTS INDIA PRIVATE LIMITED
VS
METRAVI INSTRUMENTS PRIVATE LIMITED

Before:
The Hon'ble Justice RAVI KRISHAN KAPUR
Date: 30th April, 2025

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Appearance:
Mr. Sourojit Dasgupta, Adv.
Mr. Sayak Ranjan Ganguly, Adv.
Ms. Srijani Ghosh, Adv
Ms. Indrani Majumdar, Adv.
...for review applicant.

Ms. Susrea Mitra, Adv
Mr. Samriddha Sen, Adv.
Mr. Bhupendra Gupta, Adv.
Mr. Harsh Tiwari, Adv.
Ms. Osasvi Gupta, Adv.
Mr. Anwar Hossain, Adv.
...for plaintiff..

The Court: This is an application for review of an order dated 26th February, 2025 whereby the application for condonation of delay in filing of the written statement was dismissed on the ground that there was a delay of more than 120 days in the filing of the Written Statement which is beyond the prescribed period under the Commercial Courts Act, 2015.

The admitted facts are that the Summons in the suit was served on 30 September, 2024. The time to file the written statement expired on 30th October, 2024. The 120 day time period to file the written statement expired on 28 January, 2025. In view of the decision in *SCG Contracts (India) Pvt. Ltd. Vs. K.S. Chamankar Infrastructure Pvt. Ltd. & Ors. (2019) 12 SCC 210* and on a combined reading of

Order VIII Rule 1 of the CPC and Order VIII Rule 10 of the CPC, there is no scope to extend the mandatory prescribed period.

It is now contended on behalf of the defendant that the order dated 26th February, 2025 is liable to be reviewed primarily on the ground that there were certain documents which were not brought to the attention of Court. It is contented that the written statement was allegedly affirmed on 21st December, 2024 and the application for extension of time to file the written statement had been affirmed on 20th January, 2025. However, due to certain procedural errors, the defendant was unable to file the application for extension of time to file the written statement within the prescribed time period. In support of such contention, the petitioner relies on an unreported decision in AO-COM 29 OF 2024 in CS-COM/7/ 2023 in the case of *The Roman Catholic Archdiocese of Calcutta and Ors -vs Creative Consultants.*

On behalf of the plaintiff, it is submitted that the above grounds are false and have no merit at all. It is submitted that no written statement had been filed within 120 day time period. The fact that the written statement was allegedly affirmed on 21st December, 2024 is irrelevant since no application for extension for filing the written statement had been taken out nor filed within the mandatory stipulated time period.

In such circumstances, in view of the clear mandate of the amended provision of the Code of Civil Procedure under the Commercial Courts Act, 2015, there is no scope of review of the order dated 26th February, 2025. There is no merit in the application and the same stands dismissed. The decision cited by the defendant is distinguishable and inapposite to the facts of the case. In that decision, the written statement had been affirmed on 14th August, 2024 and filed on the 115th day alongwith a notice which was served on the Advocate informing them of the relevant facts. In view of the above, no reliance can be placed on the said decision since the same does not support the contention of the defendant. In such circumstances, the date of affirmation of the Written Statement cannot extend the outer limit for filing of the Written Statement as contemplated under the above provision of Act. *[SCG Contracts (India) Private Limited. vs. K. S. Chamankar Infrastructure Private Limited & Others (2019) 12 SCC 210]*.

RVW-IPD/1/ 2025 along with GA(COM)/1/2025 stands dismissed.

However, there shall be no order as to costs.

(RAVI KRISHAN KAPUR, J.)

Arsad, AR(CR)