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OSA (CAD) No.5 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2025

CORAM

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

OSA (CAD) No.5 of 2025
and CMP No.526 of 2025

M/s.Uniworld Logistics Private Limited,
having its registered Office at
7th Floor B Wing,
KGN Towers, Commander-in-Chief Road,
Egmore, Chennai 600 008

having its Corporate Office at
No.225, 4th Block, 5th Main
Koramangala, Bangalore 650 034

: Appellant

versus

M/s.Kerry Indev Logistics Private Ltd.,
rep. By its Deputy Chief Financial Officer,
B.Parthiban,
No.81, Thambu Chetty Street, Chennai 600 001

(Amended as per order dated 2.7.2018
in Appln. No.4734 of 2018)

: Respondent

Prayer: Appeal filed against the order dated 18.07.2024 in Appl.No.313 of
2022 in C.S.No.323 of 2016.

For Appellant : Mr.Rathina Asohan

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For Respondent : Mr.M.Sreedhar

JUDGMENT

**(Judgment of the Court was
delivered by the Hon'ble Chief Justice)**

The appeal is impugning an order dated 18.07.2024, by which the Court refused to condone the delay in filing written statement, on the sole ground that it is filed beyond the statutory period of 120 days from the date of suit summons.

2. Admittedly, the suit was not originally filed as a commercial suit. It has been re-numbered as a commercial suit, after the Commercial Courts Act, 2015 came into force.

3. Therefore, the time limit of 30 days plus 90 days provided under Order 8 Rule 1 of the Code of Civil Procedure, as amended and applicable to commercial suits won't apply. This is because proviso to sub-Section 4 of Section 15 of the Commercial Courts Act, 2015, provides that the proviso to sub-Rule 1 of Rule 1 of Order 5 of the Code of Civil Procedure shall not



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apply to such transferred suit or application, and the Court may, in its discretion, prescribe a new time period, within which a written statement must be filed. Therefore, on this ground alone, the impugned order has to be quashed and set aside, which we hereby do.

4. Now comes the question of condonation of delay application which came to be rejected. The Court had a discretion to condone the delay beyond 120 days. In the affidavit in support, at paragraph 6, it is stated, “*... this Hon'ble Court directed the applicant to file written statement on or before 21.12.2021*”. In paragraph 7, it is also stated, “*I state that accordingly, the applicant filed the written statement on 20.12.2021 in SR 34428/2021 ...*”. We asked the counsel, was there a written order. Counsel said that it was an oral direction. In the reply to the said affidavit in support, there is no specific denial.

5. Therefore, we will proceed on the basis that the Court had given time to file written statement by 21.12.2021. Hence, there is no delay.

6. The Trial Court shall take the written statement on record.



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7. We direct the matter to be listed before the learned Single Judge on 07.07.2025, for directions. The learned Single Judge may thereafter post the matter for case management hearing.

8. The appeal stands disposed of. There will be no order as to costs. Consequently, the interim application also stands disposed of.

(K.R.SHRIRAM, C.J.)

(SUNDER MOHAN, J.)

23.06.2025

Index : Yes/No
Neutral Citation : Yes/No
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To
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The Sub-Assistant Registrar,
Original Side Section,
Madras High Court



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THE HON'BLE CHIEF JUSTICE

AND

SUNDER MOHAN, J.

(tar)

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