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

+ **RFA(COMM) 9/2023 & CM APPL. 2204/2023 (Stay)**

MS OXIGEN SERVICES PVT. LTD.Appellant

Through: **Mr. Rohan Garg and Mr.
S.Shantijyoti Singh, Advs.**

versus

MS PERFECT ADVERTISERS & ANR.

.....Respondents

Through: **Mr. Subhash Chand, Adv. for
R-1.
Mr. Vikram Saini, Adv. for
R-2.**

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

ORDER

10.02.2025

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CM APPL. 2203/2023 (162 Days Delay)

1. The applicant seeks condonation of delay caused in the preferment of the instant appeal. From the disclosures which are made, we find that the delay of 162 days is sought to be explained by reason of one Ms. Bhavna Sahni, who is stated to have been coordinating all legal matters having resigned from the appellant company on 28 February 2022.

2. However, it is conceded before us that the appellant applicant had all along been represented in the suit proceedings and thus it cannot possibly be assumed that it was unaware of the passing of the judgment and decree. This gets further fortified from the fact that



examination and cross-examination of witnesses was undertaken on 14 February 2020 and 29 March 2022. From the order sheet, we find that final arguments were also addressed in the suit on 26 April 2022 whereafter judgment came to be pronounced on 04 May 2022.

3. It is thus evident that the employee had resigned during the pendency of the suit proceedings itself. It would thus be wholly incorrect for the appellants to assert that they had no knowledge of either the suit proceedings or the pronouncement of judgment and the drawal of decree.

4. We also bear in consideration the fact that the proceedings themselves pertained to a commercial suit and which category of cases must necessarily be accorded appropriate treatment and consideration. Consequently, we find no merit in the explanation which is proffered.

5. The application shall, consequently, stand dismissed.

6. The appeal shall, in consequence, stand consigned to the record.

7. Any amounts that may have been deposited with this Court during the pendency of the appeal shall now be released in favour of respondent No. 1/decree holder, subject to due verification.

YASHWANT VARMA, J

HARISH VAIDYANATHAN SHANKAR, J
FEBRUARY 10, 2025/RW