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

+ **CM(M)-IPD 3/2025 with CM 39/2025 & CM 40/2025**

M/S EXPORT AGRO INDUSTRIES THROUGH

HANSABEN KISHORBHAI TIMBADIAYPetitioner

Through: Ms. Arushi Singh, Ms. Vernika
Tomar, Mr. Himen Trivedi and Ms.
Manviya Arun, Advocates.

versus

M/S DHANUKA AGRITECH LTD.Respondent

Through: Mr. Manish Biala and Mr. Arun
Kumar Jha, Advocates.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

21.02.2025

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1. The present petition has been filed under Article 227 of the Constitution of India impugning the order dated 23rd October, 2024 passed by the Commercial Court-01, Central, Tis Hazari Court, Delhi, whereby the application filed by the petitioner/ defendant for framing additional issues has been dismissed.
2. Issue notice.
3. Notice is accepted by Mr. Manish Biala, counsel appearing on behalf of the respondent.
4. With the consent of the parties, the petition is taken up for disposal at this stage itself.
5. Ms. Arushi Singh, counsel appearing on behalf of the petitioner,



submits that the impugned order itself notes that the official copy of the aforesaid application had not been filed by the petitioner before the Commercial Court. Only a copy of the same had been sent to the plaintiff through e-mail. The impugned order also notes that the petitioner was not present on that date and the suit was listed for recording of evidence.

6. From a reading of the impugned order, it is clear that the aforesaid application had not been officially filed on behalf of the petitioner and therefore, the Commercial Court could not have taken up the same for hearing on the said date.

7. Accordingly, applying the principles of natural justice and without going into the merits of the case, the impugned order dated 23rd October, 2024 is set aside.

8. Liberty is given to the petitioner to move a fresh application for framing of additional issues. As and when the said application is filed, the same would be decided by the Commercial Court in accordance with law.

9. The petition is disposed of in the aforesaid terms.

10. All pending applications stand disposed of.

AMIT BANSAL, J

FEBRUARY 21, 2025

Vivek/-