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

+ **FAO (COMM) 68/2024, CM APPL. 23324/2024 & CM APPL. 23325/2024**

SIGMA TRADE WING LLP & ORS.

.....Appellants

Through: **Mr. Gaurav Rana and Mr. Shivanshu Srivastava, Advocates.**

versus

TOUCHWOOD ENTERTAINMENT LIMITEDRespondent

Through: **Mr. Mohit Gupta, Ms. Anisha Gupta, Ms. Meenakshi Garg, Mr. Dhruv Mehta & Mr. Navjot Kaur, Advocates.**

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

30.04.2025

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1. The Appellant has filed the present appeal impugning an order dated 05.02.2024 [**impugned order**] passed by the learned Commercial Court in CS (COMM.) No.312/2022 captioned *TOUCHWOOD ENTERTAINMENT LIMITED v. SIGMA TRADE WING LLP & ORS.*, whereby the learned Court disposed of two applications: first, an application under Order VII Rule 11 of the Code of Civil Procedure, 1908 [**CPC**] seeking rejection of the plaint; and, second, an application under Order VIII Rule 1 of the CPC, filed by the Appellant No. 2 to 4 (Defendant No. 2 to 4 before the Commercial Court), seeking condonation of delay of 84 days in filing their written statement.
2. The Appellant is essentially aggrieved by the rejection of its



application under Order VII Rule 11 of the CPC. The Appellant's application before the learned Commercial Court was principally premised on two grounds: first, that the dispute is not a commercial dispute, within the meaning of Section 2(1) of the Commercial Courts Act, 2015 [CC Act]; and second, that the Court did not have territorial jurisdiction to entertain the aforementioned suit filed by the Respondent.

3. The learned Commercial Court found no merits in the aforesaid contentions.

4. The impugned order is not covered by any of the clauses of Order XLIII Rule 1 of the CPC; therefore, the present appeal is not maintainable.

5. The aforesaid issue is covered by the decision of the Supreme Court in ***Kandla Export Corporation & Another v. OCI Corporation & Another : (2018) 14 SCC 715***, wherein the Court held as under:-

“14. The proviso goes on to state that an appeal shall lie from such orders passed by the Commercial Division of the High Court that are specifically enumerated under Order 43 of the Code of Civil Procedure Code, 1908, and Section 37 of the Arbitration Act. It will at once be noticed that orders that are not specifically enumerated under Order 43 of the CPC would, therefore, not be appealable, and appeals that are mentioned in Section 37 of the Arbitration Act alone are appeals that can be made to the Commercial Appellate Division of a High Court.”

6. The issue is also covered by the decisions of this Court in ***HP Cotton Textile Mills Limited v Oriental Insurance Company Limited : Neutral Citation No.2023/DHC/000632***, ***Arrena Overseas Private Limited v. Batra Art Press: Neutral Citation:2023:DHC:7446-DB***; and ***Odeon Builders Pvt***



***Limited v. NBCC (India) Limited : Neutral Citation
No.2021:DHC:2822-DB.***

7. In view of the above, the present appeal is dismissed.
8. All pending application(s) also stand disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

APRIL 30, 2025/ 'A'

Click here to check corrigendum, if any