

2026.PHHC.013466



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR-203-2025 (O&M)

Date of Decision: 29.01.2026

Yograjsinh Laljibhai Yadav

....Petitioner

Versus

M/s Eco Emission Xchange Private Limited

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Naresh Gopal Sharma, Advocate,
for the petitioner.

VIKRAM AGGARWAL, J.

The instant petition, filed under Article 227 of the Constitution of India, assails the order dated 04.10.2024 (Annexure P.12), passed by the Commercial Court, Gurugram, vide which the application filed by the petitioner-defendant, under Order 8 Rule 1 CPC, for condoning the delay in filing the written statement, was dismissed and the defence was struck off.

2. The facts, as emanating from the revision petition, are that a suit for recovery of Rs.4,29,73,098/- was instituted by respondent-plaintiff against the petitioner-defendant (Annexure P.1), in the Commercial Court, Gurugram.

3. Pursuant to notice having been issued for 01.08.2022 vide order dated 01.07.2022, the petitioner-

defendant caused appearance on the said date. Since legible copies of the documents along with the plaint, had not been supplied to the petitioner-defendant, a request in this regard was made to the Court, which granted time to the respondent-plaintiff for the said purpose. The documents having been furnished on 22.10.2022, an application under Order 8 Rule 1 CPC, for condonation of delay in filing the written statement along with a copy of the written statement, was filed on 02.12.2022, which came to be dismissed vide order dated 04.10.2024 (Annexure P.12), leading to the filing of the present revision petition.

4. Notice of the revision petition was issued. No one caused appearance on behalf of the respondent, despite service.

5. I have heard learned counsel for the petitioner.

6. Learned counsel for the petitioner has submitted that the Commercial Court, Gurugram, erred in dismissing the application for condonation of delay in filing the written statement. While referring to the interlocutory orders passed by the Commercial Court, Gurugram, learned counsel has submitted that the time period of 120 days, as envisaged under Order 8 Rule 1 CPC, pertaining to the Commercial Courts, would start running from the day, when the legible copies of the documents etc., were furnished. He submits that since legible copies were furnished on 07.10.2022 and 120 days from the said period had not expired, the Commercial Court, Gurugram,

erred in dismissing the application and striking off the defence of the petitioner.

7. I have considered the submissions made by learned counsel for the petitioner.

8. A perusal of the interlocutory orders, annexed with the revision petition, show that the suit was instituted on 31.05.2022 before the Commercial Court, Gurugram. Since proper Court fee had not been affixed, time was granted upto 01.07.2022 for furnishing of the same. On 01.07.2022, the requisite Court fee stamp was affixed and notice was issued to the petitioner-defendant for 01.08.2022. The petitioner-defendant caused appearance through counsel on 01.08.2022 and prayed for some time to file written statement. The Court duly noticed that legible copies of the documents had not been furnished and an assurance was given by learned counsel representing the respondent-plaintiff that the needful would be done by the next date of hearing. The order dated 01.08.2022 passed by the Commercial Court, Gurugram, reads as under:-

“Memo of appearance filed on behalf of defendant. Learned counsel appearing for defendant seeks time to file written statement and reply to application under Order 38 Rule 5 read with Section 151 CPC as well as vakalatnama.

Be filed on 07.09.2022.

Legible copies of documents not furnished. Learned counsel for plaintiff submits that needful shall be done by next date of hearing.

Said copies be filed on date fixed and be also supplied to counsel opposite.”

9. On the next date i.e. 07.09.2022, a statement was given by learned counsel for the petitioner-defendant that she had not been able to prepare the written statement and reply, for want of documents. Learned counsel for the plaintiff, therefore, undertook to transmit all documents within one day and the matter was ordered to be listed on 12.10.2022 and on the said date, the legible copies of documents were furnished and were taken on record.

10. Notably, even on 07.09.2022, counsel for the plaintiff had submitted that the documents would be furnished by the next date of hearing i.e. 12.10.2022. After the supply of legible copies of documents, the case was listed for 16.11.2022 for filing of reply.

11. On 16.11.2022, an application under Order 7 Rule 11 CPC was filed for rejection of the plaint and on the same day, reply to the said application was also filed. The case was then adjourned to 11.01.2023. In between, an application was moved by the petitioner-defendant for condonation of delay in filing the written statement and even the written statement was annexed. The matter was, therefore, taken up on 02.12.2022 and the case was ordered to be put up on 11.01.2023, the date already fixed.

12. Eventually, the application was decided vide order dated 04.10.2024 and was rejected and the defence was struck off. The Commercial Court, Gurugram, observed that the written statement had to be filed within a period of 30 days after which,

a further period of 90 days could be provided for reasons to be recorded in writing. Since the written statement was not filed within 30 days from the furnishing of the documents, the defence was struck off.

13. No doubt, in **M/s. SCG Contracts India Pvt. Ltd. Vs. K.S. Chamankar Infrastructure Pvt. Ltd. & Ors., (2019)12 SCC 210**, the Hon'ble Apex Court held that in so far as the commercial disputes are concerned, written statement has to be filed within a period of 120 days and there is no power with the Court to grant any further time. In **Sunil Alagh Vs. Shivraj Puri & Anr, [CS(COMM) No.1495 of 2016 decided on 14.12.2017]**, the Delhi High Court was seized of a similar issue, where documents had not been supplied in time. The Delhi High Court held that the period of 120 days would start running from the date when the copies of the plaint and the documents, are supplied.

15. If one goes through the facts of the present case, the documents were supplied on 12.10.2022. The application for condonation of delay along with written statement was filed on 02.12.2022 i.e., about 60 days after the said date. In between, an application under Order 7 Rule 11 CPC, had been filed. The Commercial Court, Gurugram, therefore, erred in striking off the defence of the petitioner-defendant.

16. Even otherwise, it has to be borne in mind that matters should normally be decided on merits and parties should not be non-suited on mere technicalities. It is a suit for

recovery of Rs.4,29,73,098/- and striking off the defence of a party, unless the conduct is such that there is violation of the timeline, would not be justified.

17. In view of the aforesaid facts and circumstances, the present revision petition is allowed. The impugned order dated 04.10.2024 (Annexure P.12) passed by the Commercial Court, Gurugram, vide which the defence of the petitioner-defendant had been struck off, is set aside. The petitioner-defendant is granted one opportunity to file its written statement. The needful be done within a period of two weeks from today, whereafter, the trial may proceed as per the schedule.

(VIKRAM AGGARWAL)
JUDGE

29.01.2026

ds	Whether speaking/reasoned:	Yes/No
	Whether reportable:	Yes/No