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

\# **CNR No. DLHC010491172026**

\+ CM(M) 2264/2026, CM APPL. 70703/2026, CM APPL. 70704/2026 & CM APPL. 70705/2026

M/S DECOPLY AGENCIES .....Petitioner

Through: Mr. Karan Sinha, Advocate

versus

M/S BANSAL SALES CORPORATION PVT LTD .....Respondent

Through: Mr. Abhishek Aggarwal and Mr. Vinayak Bhardwaj, Advs.

CORAM:
HON'BLE MR. JUSTICE AJAY DIGPAUL

O R D E R

% 09.10.2026

1. By way of the present petition, the petitioner/defendant seeks to set aside the order dated 05.08.2026, passed by the learned District Judge (Commercial Court)-02, East District, Karkardooma Courts, Delhi, in CS (COMM) 280/25, titled *"M/S Bansal Sales Corporation Pvt. Ltd. v. M/S Decoply Agencies"*.

2. The facts, shorn of unnecessary details are, in 2025 the respondent/plaintiff instituted the underlying commercial suit seeking *inter alia* recovery of Rs. 16,66,388/-.

3. Pursuant thereto, the petitioner was served on 06.12.2025 and the written statement along with the accompanying pleadings and documents, was filed by the petitioner on 12.03.2026, 65 days after the expiry of the 30

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days period prescribed under the Commercial Courts Act, 2015. Meanwhile, the petitioner also moved an application under Section 5 of the Limitation Act, 1963 read with Section 151 of the Code of Civil Procedure, 1908 ("CPC"), seeking condonation of delay in filing the written statement.

4. Subsequent thereto, the learned Trial Court *vide* impugned order dated 05.08.2026 dismissed the aforesaid application of the petitioner and consequently, declined to take the written statement on record. The relevant portion of the impugned order is reproduced hereunder for ready reference:

> "The application does not disclose any pursuasive grounds for the delay. The application seeking condonation of delay stands dismissed. Accordingly, the WS is not taken on record.
>
> In terms of submissions of Ld. Counsel for the plaintiff that the replication has been filed subject to outcome of the application, the replication also does not form part of the record.
>
> Since the WS has been taken off record, issues need not be framed. Matter be listed for PE on 22.10.2026. Evidential affidavit be filed. Advance copy be supplied to the Ld. Counsel for defendant."

5. Unsettled by the impugned order, the petitioner has preferred the present petition.

6. The learned counsel appearing on behalf of the petitioner submits that even though the written statement was filed beyond the initial period of 30 days, it was filed well within the 120 days outer limit stipulated by the Commercial Courts Act, 2015 and owing to the same, the learned Trial Court ought to have examined the sufficient cause proffered by the petitioner for the said delay.

7. It is further submitted that the delay in filing the written statement is attributable to the fact that the petitioner is based in Vadodara, Gujarat and had to specifically engage counsel in Delhi, transmit the case records and

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furnish instructions *qua* the relevant transactions, which were 4-5 years old at that time. It is added that relevant records had to be retrieved from the archived electronic records of the petitioner and accounts pertaining to dispute and defective supplies had to be reconciled.

8. It is lastly contended that the refusal of the learned Trial Court to take the written statement on record effectively shut out the entire evidence of the petitioner, leaving the petitioner defenceless.

9. *Per contra,* the learned counsel for the respondent vehemently opposes the contentions of the petitioner and submits that the delay has not been sufficiently explained by the petitioner and no material has been placed on record to demonstrate that the delay was caused on account of the petitioner being based in Vadodara.

10. Heard. Perused the record.

11. It is no longer *res integra* that the period of 30 days for filing the written statement is to be reckoned from the date of service of summons upon the defendant. Nevertheless, under the proviso to Order VIII Rule 1 of the CPC, as amended by the Commercial Courts Act, 2015, where the defendant fails to file the written statement within the said period of 30 days, he shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and upon payment of such costs as the Court deems fit, so long as the written statement is filed within the 120 days outer limit stipulated by the Commercial Courts Act, 2015. The proviso is extracted hereinbelow for clarity:

> "Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons

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> to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the Court shall not allow the written statement to be taken on record."

12. The aforesaid discussion draws further support from the case of ***M/S AP Distributors & Anr. v. M/S OK Play India Pvt. Ltd.*** **2022 SCC OnLine SC 1512**, where the Hon'ble Apex Court allowed a written statement filed on the 34th day from the service of notice of summons. The relevant portion of the said judgment is reproduced hereunder for ready reference:

> "Leave granted.
>
> Having heard learned counsel for the respective parties and in the facts and circumstances of the case and considering the fact that the written statement was filed on the 34th day of the service of notice of summons, however, the application for condonation of delay was filed which was beyond the period of 120 days, the High Court has taken too technical view in setting aside the order passed by the learned Commercial Court directing to accept the written statement filed on behalf of the appellants/defendants. The High Court was not justified in setting aside the order passed by the learned Trial Court directing to take the written statement on record.
>
> In view of the above and for reasons stated hereinabove, the present appeals succeed. The impugned judgntent and orders passed, by the High Court are hereby quashed and set aside and- the order passed by the learned Trail Court directing to take written statement on record after cordoning the delay in submitted the written statement is hereby restored.
>
> The present Appeals are accordingly allowed. No costs."

13. In the present case, admittedly, the petitioner tendered the written statement after a delay of 65 days from the initial 30 days period, however, the petitioner is based in Vadodara while the underlying suit was instituted in Delhi and the transactions in question emanate from 2020, 2021 and

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2022, which required the petitioner to trace and retrieve old business records, correspondence, ledger entries etc.

14. After hearing the parties at length and perusing the record, this Court is of the considered view that the learned Trial Court has taken too technical of a view by not considering the reasons assigned in the subject application of the petitioner. Furthermore, by declining to take the written statement on record, the Trial Court has effectively shut out the defence of the petitioner, which should not be the case as at the end of the day litigation is a voyage towards the truth, which requires that all parties be heard effectively.

15. In view thereof, this Court believes that the impugned order is unsustainable inasmuch as it would cause grave prejudice to the petitioner, if given effect to. This Court further believes that the respondent can be suitably compensated with costs for the delay caused by the petitioner as the matter is still at the stage of plaintiff's evidence.

16. Accordingly, the impugned order dated 05.08.2026 is set aside and it is directed that the written statement, along with the accompanying documents, be taken on record. The aforesaid indulgence is granted to the petitioner subject to cost of Rs. 25,000/- payable to the respondent, on or before the next date of hearing before the learned Trial Court i.e., 22.10.2026. In case the petitioner fails to make the aforesaid payment, the indulgence granted herein shall stand vacated without further reference to this Court and the learned Trial Court shall be at liberty to proceed further with the trial in accordance with law.

17. It is clarified that this Court has not touched the merits of the underlying dispute.

18. As nothing further survives for adjudication, the present petition along

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with pending applications (if any), stands disposed of.

AJAY DIGPAUL, J

OCTOBER 9, 2026/ar/as

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