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

+ **CS(COMM) 243/2023**

HERO INVESTCORP

PRIVATE LIMITED AND ANR

.....Plaintiffs

Through:

versus

VM LUBRICANT

.....Defendant

**Through: Mr. Krishna Murari and Mr. Ram
Naresh, Advocates.**

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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24.10.2024

**O.A. 184/2024, I.A. 43259/2024 (Seeking stay of the proceedings) and
I.A. 43260/2024 (condonation of delay of 91 days in filing O.A.
184/2024)**

1. The applicant/defendant has filed this Chamber Appeal against the order dated 3rd July, 2024 passed by the Joint Registrar, whereby the I.A. 32050/2024 filed on behalf of the defendant seeking condonation of delay of 153 days in filing the written statement has been dismissed.
2. The operative part of the order passed by the Joint Registrar is set out below:

*“Since the maximum permissible period to take on record written statement in a Commercial Suit is 120 days, there is no provision in law which permits filing of the written statement beyond the maximum permissible period. Consequently, **application is declined**. Defendant's right to bring on record the written statement stands closed.*

CS(COMM) 243/2023

Page 1 of 2



IA stands disposed off.”

3. Counsel for the applicant/defendant submits that there were genuine/*bona fide* reasons due to which the written statement could not be filed in a timely manner.
4. It is a settled position of law that in respect of commercial suits, the Court does not have the power to condone the delay in filing written statement beyond a period of 120 days prescribed under the second Proviso to Order VIII Rule 1 of the Code of Civil Procedure, 1908 as applicable to commercial suits [See *SCG Contracts (India) Private Limited v. K.S. Chamankar Infrastructure Private Limited & Ors.* (2019) 12 SCC 210].
5. In view of the aforesaid legal position, there is no power with the Court to condone the delay in filing written statement beyond 120 days.
6. Hence, there is no error in the aforesaid order passed by the Joint Registrar.
7. Accordingly, the present appeal and the captioned applications are dismissed.

AMIT BANSAL, J

OCTOBER 24, 2024
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