



2025:DHC:296-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO (COMM) 10/2025, CM APPLs. 2035/2025, 2036/2025 & 2037/2025**

**RAJIV KHANNA (SINCE DECEASED)
THROUGH LR.**

.....Appellant

Through: Mr. Aayushman Gauba and
Mr. Dhruv Goyal, Advs.

versus

**M/S. TSG INTERNATIONAL MARKETING
PVT LTD. & ANR.**

.....Respondents

Through: Mr. Vipin Singhania and
Mr. Diwakar Chirania, Advs.

**CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL**

ORDER (ORAL)

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17.01.2025

C.HARI SHANKAR, J.

1. The impugned order passed by the learned Trial Court rejects an application for condonation of 11 months delay in filing restoration application to restore the suit which was dismissed in default for non-prosecution on 16 August 2023.

2. The stand taken by the appellant before the learned Trial Court was that there was negligence on the part of his counsel, which resulted in the default in appearance.



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3. Mr. Vipin Singhanian, learned Counsel for the respondent submits that it is now common practice to blame Counsel for delay in approaching the Court.
4. We do not wish to enter into this thicket, as the delay in filing the restoration application is only of 11 months.
5. The right to prosecute legal remedies is a fundamental right under our constitutional scheme. It should not, therefore, save and except where there is no other option, be jettisoned.
6. In view thereof, we are of the opinion that, given the fact that the delay in filing the restoration application is only of 11 months, the interests of justice would be best subserved if the present application is allowed, subject to terms.
7. Accordingly, subject to the appellant paying costs of ₹25,000/- to the Delhi High Court Legal Services Committee within a period of four weeks from today, the impugned order dated 9 October 2024 passed by the learned District Judge (Commercial) is quashed and set aside.
8. CS DJ 71/2022 stands restored to the Court of the learned District Judge (Commercial) who will proceed with the suit in accordance with law.
9. This appeal stands allowed in the aforesaid terms. Pending



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applications, if any, stand disposed of.

C.HARI SHANKAR, J.

AJAY DIGPAUL, J.

JANUARY 17, 2025

SSC

Click here to check corrigendum, if any