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

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Date of Decision : 28.09.2026# **CNR No. DLHC010300022024**+ **CS(COMM) 422/2024****ADSUN IMPEX PVT. LTD.****.....Plaintiff**

Through: Mr. Vishnu Mehra, Senior Advocate
with Mr. Karan Mehra, Mr. Rahul
Negi, Mr. Vimal Prakash Pandey and
Mr. Puru Bhardwaj, Advocates.

versus

NEW INDIA ASSURANCE CO. LTD.**.....Defendant**

Through: Mr. Sanjoy Ghose, Senior Advocate
with Mr. Jeevan Ballav Panda, Mr.
Rahul Kaushik, Mr. Rohan Mandal
and Mr. Saurabh Samraat, Advocates.

CORAM:**HON'BLE MR. JUSTICE TEJAS KARIA****TEJAS KARIA, J. (ORAL)****O.A. 270/2026 & I.A. 26866/2026 (for Stay)**

1. The present Chamber Appeal has been filed on behalf of the Defendant under Chapter II Rule 5 of the Delhi High Court (Original Side) Rules, 2018 (“**Rules**”) against order dated 02.09.2026 (“**Impugned Order**”), passed by the learned Joint Registrar (Judicial) in I.A. No. 18147/2026 in the present Suit, whereby the delay in re-filing the Replication along with the Affidavit of admission / denial of documents was condoned, subject to payment of cost of ₹10,000/- to the Defendant. The Defendant has also filed I.A. 26866/2026 for stay of the Impugned Order pending the Chamber Appeal.

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2. Issue Notice. Mr. Karan Mehra, learned Counsel accepts Notice on behalf of the Plaintiff.
3. Mr. Sanjoy Ghose, learned Senior Counsel for the Defendant has submitted that the Impugned Order has condoned the delay in re-filing of the Replication, which was filed beyond the outer limit of 45 days under Chapter VII Rule 5 of the Rules, which expired on 30.03.2025. It was submitted that the Replication filed by the Plaintiff shows that the same was executed and verified on 28.07.2025, which was 120 days after the limit of 45 days under Chapter VII Rule 5 of the Rules had expired.
4. The learned Senior Counsel for the Defendant submitted that the Defendant had served the complete set of Written Statement along with its documents upon the Plaintiff on 13.02.2025. Accordingly, the 30 days for filing Replication expired on 15.03.2025 and the outer limit of 45 days expired on 30.03.2025.
5. Mr. Vishnu Mehra, learned Senior Advocate on behalf of the Plaintiff submitted that the Replication along with the Affidavit of admission / denial of documents was filed on 24.02.2025 *vide* Diary No. 1348846/2025. However, the learned Senior Counsel for the Defendant submitted that no service was effected on the Defendant when the Replication was stated to have been filed for the first time on 24.02.2025. It was further submitted by the learned Senior Counsel for the Defendant that the Replication was served upon the Defendant's Counsel only on 28.07.2025.
6. The learned Senior Counsel for the Defendant relied upon the objections raised by the Registry of this Court on 17.04.2025, which required the Plaintiff to mention the correct word 'Replication' in place of 'Rejoinder' and also provide the affidavit of service and proof of service.



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7. The learned Senior Counsel for the Defendant submitted that as per Chapter IV Rule 3 of the Rules, the objection raised by the Registry has to be removed within a period not exceeding 7 days at a time and 30 days in aggregate from the date on which the Registry raised the objection, which period expired on 17.05.2025.

8. *Vide* order dated 22.04.2025, the Joint Registrar (Judicial) recorded the submissions of the learned Counsel for the Defendant that no copy of the Replication or the Affidavit of admission / denial of documents has been received by the learned Counsel for the Defendant. According to the Plaintiff, the objections were removed on 26.05.2025 after the expiry of period of 30 days without filing any application for condonation of delay in re-filing as mandated by Chapter IV Rule 3(c) of the Rules. On 26.05.2025, the Registry again returned the Replication under objection as the proof of service and affidavit of service were not filed by the Plaintiff. The Plaintiff removed the said objection by serving the Replication to the learned Counsel for the Defendant on 28.07.2025.

9. *Vide* order dated 29.07.2025, the learned Joint Registrar (Judicial) recorded that the Plaintiff had failed to remove objections for filing of the Replication despite expiry of 30 days and, accordingly, the Replication along with the Affidavit of admission / denial of documents was not taken on record.

10. On 18.11.2025, the learned Counsel for the Plaintiff submitted that the objections in filing the Replication were removed on 28.07.2025 and the same may be taken on record. The said submission was strongly opposed by the learned Counsel for the Defendant. Accordingly, the learned Joint Registrar (Judicial) observed that *vide* order dated 29.07.2025, the



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Replication and the Affidavit of admission / denial of documents filed on behalf of the Plaintiff were taken on record and there was no power to review the said order. It was further observed that the Plaintiff shall be at liberty to avail appropriate legal remedies.

11. The Plaintiff filed chamber appeal against order dated 29.07.2025 being O.A. 7/2026. *Vide* order dated 22.05.2026, it was observed that the application was filed within 11 days from the date of filing of the Written Statement, however, there was a delay in re-filing the Replication but no application for condonation of delay in re-filing of the Replication was filed. Accordingly, the chamber appeal filed by the Plaintiff was disposed of with a liberty to the Plaintiff to file an application for condonation of delay in re-filing the Replication. It was further observed that if any such application is filed, the same would be considered by the learned Joint Registrar (Judicial) in accordance with law.

12. Pursuant to order dated 22.05.2026 passed in chamber appeal being O.A. 7/2026, the Plaintiff filed I.A. 18147/2026 seeking condonation of delay in re-filing the Replication along with the Affidavit of admission / denial of documents. *Vide* order dated 02.09.2026, the said application was allowed and the delay in re-filing the Replication along with the Affidavit of admission / denial of documents was condoned, subject to the cost of ₹10,000/- to be paid to the Defendant within four weeks.

13. The learned Senior Counsel for the Defendant submitted that the delay of 75 days in re-filing the Replication has not been sufficiently explained by the Plaintiff. The learned Senior Counsel for the Defendant further submitted that there is nothing on record to show that the Replication was initially filed on 24.02.2025 and, in any event, the initial filing of



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24.02.2025 was *non-est* as no copy of the Replication had been served on the Defendant in compliance with Chapter VII Rule 5 of the Rules.

14. The learned Senior Counsel for the Defendant submitted that from the reading of Chapter VII Rule 5 of the Rules, it is evident that service upon the Defendant is a condition precedent to the acceptance of the Replication and without serving a copy of the Replication, the same cannot be taken on record. It was submitted by the learned Senior Counsel for the Defendant that since the Replication was not served upon the Defendant until 28.07.2025, the want of service goes to the root of the filing and, therefore, the initial filing of 24.02.2025 cannot be considered as a valid filing.

15. The learned Senior Counsel for the Defendant submitted that the judgment of ***Delhi Development Authority v. M/s Durga Constructions*** in FAO (OS) 485-86/2021 relied upon in the Impugned Order supports the Defendant as the non-service of the Replication on the Defendant as per the Rules makes the filing *non-est* and the discretion to condone the delay in re-filing beyond the specified time cannot be exercised liberally. It was submitted on behalf of the Defendant that as the Plaintiff has not shown any sufficient cause for seeking condonation of delay in re-filing the Replication, the Impugned Order is liable to be set aside.

16. The learned Senior Counsel for the Defendant submitted that the reasons provided by the Plaintiff for seeking condonation of delay in re-filing the Replication on the ground that the Court was closed for summer vacation in June 2025 and that the court clerk of the Plaintiff's Counsel suddenly left the employment in July, 2025 are not sufficient.

17. It was further submitted on behalf of the Defendant that the Plaintiff and its Counsel were fully aware that the Replication was not served and



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was lying under objections and despite that the Plaintiff took no steps to serve the Replication till 28.07.2025 and further did not take any steps for seeking condonation of delay in re-filing the same.

18. The learned Senior Counsel for the Defendant submitted that it is a settled position of law that a litigant owes a duty to be vigilant of his own rights and cannot throw the entire blame on his advocate or advocate staff, which cannot be a ground to condone any inordinate delay in re-filing of the Replication. It was further submitted that the conduct of the Plaintiff has been casual and lackadaisical throughout.

19. The learned Senior Counsel for the Defendant submitted that it is also a settled position of law that the proof of sufficient cause is a condition precedent for exercise of the discretion to condone the delay and if sufficient cause is not shown, the application has to be dismissed on that ground alone.

20. The learned Senior Counsel for the Defendant submitted that the imposition of costs cannot substitute the finding of sufficient cause if the law requires. It was further submitted that upon expiry of the period prescribed for filing the Replication gave rise to a corresponding right in favour of the Defendant, including the right under Chapter VII Rule 7 of the Rules to have the documents filed along with the Written Statement treated as deemed to be admitted and such right cannot be disturbed light-heartedly.

21. Accordingly, it was prayed on behalf of the Defendant that the present Appeal be allowed, and the Impugned Order be set aside.

22. Heard learned Senior Counsel for the Defendant as well as the Plaintiff and perused the material placed on record.

23. Upon perusal of the various orders passed by the learned Joint Registrar (Judicial) and this Court, it is clear that the Replication was first



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filed on 24.02.2025 without serving a copy on the Defendant and mentioning 'Rejoinder' instead of 'Replication'. The said defects were notified to the learned Counsel for the Plaintiff on 17.04.2025. The defect with regard to description of the Replication was cured on 26.05.2025, however, the defect of non-service of the copy on the Defendant was not cured and, accordingly, the Registry notified the said objection on 26.05.2025.

24. Ultimately, the service of the Replication was effected on 28.07.2025, however, the Replication was not taken on record *vide* order dated 29.07.2025 as the Plaintiff had failed to remove the objection within the period of 30 days. Thereafter, the chamber appeal filed against the order dated 29.07.2025 passed by Joint Registrar (Judicial) was disposed of with a liberty to the Plaintiff to file an application for condonation of delay in re-filing the Replication. The said application was thereafter filed by the Plaintiff and was allowed *vide* the Impugned Order subject to a cost of ₹10,000/- to be paid to the Defendant.

25. The Defendant has raised various grounds for challenging the Impugned Order. The first ground is that there is nothing on record to show that the Replication was first filed on 24.02.2025. However, the perusal of the orders passed in this matter shows that the Replication was first filed on 24.02.2025 *vide* Diary No. 1348846/2025. Therefore, the said objection of the Defendant cannot be accepted.

26. The second ground is that the filing of Replication on 24.02.2025 was *non-est* since a copy of the same was not served upon the Defendant in accordance with Chapter VII Rule 5 of the Rules, which provides as under:



*“5. **Replication.**-The replication, if any, shall be filed within 30 days of receipt of the written statement. If the Court is satisfied that the plaintiff was prevented by sufficient cause for exceptional and unavoidable reasons in filing the replication within 30 days, it may extend the time for filing the same by a further period not exceeding 15 days but not thereafter. For such extension, the plaintiff shall be burdened with costs, as deemed appropriate. The replication shall not be taken on record, unless such costs have been paid/ deposited. In case no replication is filed within the extended time also, the Registrar shall forthwith place the matter for appropriate orders before the Court. An advance copy of the replication together with legible copies of all documents in possession and power of plaintiff, that it seeks to file along with the replication, shall be served on the defendant and the replication together with the said documents shall not be accepted unless it contains an endorsement of service signed by the defendant/ his Advocate.”*

27. The above Rule provides that a copy of the Replication shall be served on the Defendant and unless such service is made, the Replication shall not be accepted. Accordingly, the Registry had raised objection on 17.04.2025 and 26.05.2025 with regard to non-service of the copy of the Replication on the Defendant. Until a copy of the Replication was not served upon the Defendant, the same was not taken on record as evident from order dated 29.07.2025. Accordingly, Chapter VII Rule 5 of the Rules was complied with by not accepting the Replication until the Plaintiff served a copy on the Defendant and, therefore, the filing of the Replication on 24.02.2025 cannot be treated as *non-est*.

28. As regards the third ground that the Plaintiff has not provided sufficient grounds for seeking condonation of delay in re-filing of the Replication, the Plaintiff has sought to explain the same on the ground of intervening summer vacation and the leaving of the clerk of the Plaintiff's Counsel.



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29. The learned Joint Registrar (Judicial) has found the same to be satisfactory as the initial filing of the Replication was within the limitation period of 30 days and the delay was only in re-filing the Replication. The Impugned Order has imposed a cost of ₹10,000/- to be paid to the Defendant, however, considering the facts and circumstances of the case, it is directed that the Plaintiff shall pay the enhanced cost of ₹20,000/- instead of cost of ₹10,000/- imposed by the learned Joint Registrar (Judicial) to the Defendant within four weeks. The Impugned Order is modified to the said extent.

30. The Appeal and the Application for stay stand disposed of in the aforesaid terms.

TEJAS KARIA, J

SEPTEMBER 28, 2026/sms

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