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

*Date of decision: 26<sup>th</sup> September, 2025*

*Uploaded on: 29<sup>th</sup> September, 2025*

+ **RFA(COMM) 561/2025, CM APPL. 61884/2025 & CM APPL. 61885/2025**

M/S NITYA WORLD HOLIDAYS PVT LTD  
& ORS.

.....Appellants

Through: Mr. V.K. Shukla and Mr. Imran, Advs.  
versus

M/S AMAN TRAVELS LTD

.....Respondent

Through: None.

**CORAM:**  
**JUSTICE PRATHIBA M. SINGH**  
**JUSTICE SHAIL JAIN**

### **JUDGMENT**

#### **Prathiba M. Singh, J.**

1. This hearing has been done through hybrid mode.
2. The present appeal has been filed by the Appellant under Section 13 of the Commercial Courts Act, 2015 read with Section 96 and Section 151 of the Code of Civil Procedure, 1908, *inter alia*, challenging the *ex-parte* judgment dated 7<sup>th</sup> September, 2022 passed by the Id. District Judge, (Commercial Court)-01, South District, Saket Court, New Delhi (*hereinafter*, '*impugned judgment*').
3. *Vide* the impugned judgement the suit **CS(COMM) NO. 399/2019** of the Respondent/Plaintiff has been decreed for a sum of Rs.8,86,660/-, along with *pendente lite* interest and future interest at 18% per annum, in the following



terms.

**“8. In view of forgoing discussion and unchallenged testimony of PW-1 and evidence brought on record, suit of the plaintiff is hereby decreed for a total amount of Rs.8,86,660/- (Rupees Eight Lakh Eighty Six Thousand Six Hundred and Sixty only) in favour of the plaintiff company and against the defendants, jointly and severally. The plaintiff has claimed pendente-lite interest and future interest @ 18% p.a. till realization but in the considered opinion of this court, the ends of justice would be met if pendente lite and future interest is granted on the suit amount @ 9% p.a. in view of the prevailing rate of interest. Accordingly, the pendente lite and future interest @ 9% per annum is hereby awarded in favour of the plaintiff on the suit amount from the date of the institution of the suit till its realization. The plaintiff has also claimed the costs of the suit. Keeping in view Section 35 and 35A of CPC and particularly when the defendants have not contested the claims of the plaintiff and are responsible for the litigation, they are held to be liable to bear the costs to the extent of court fees etc. Accordingly, the plaintiff is entitled for the costs of litigation. The advocate fee is assessed to be Rs.15,000/- only and same is hereby awarded in favour of the plaintiff. Cost of the suit i.e. court fee etc. are also awarded in favour of plaintiff. Decree sheet be prepared accordingly.”**

4. The Respondent – M/s Aman Travels Ltd. is the Plaintiff in the suit. It is stated to be engaged in the business of tours and travels, since 1993. It owns a portal by the name [www.GRNconnect.com](http://www.GRNconnect.com), which has live inventories/products of various hotels/apartments transfers and sight-seeing etc.

5. According to the Plaintiff/Respondent, the Defendants/Appellants are



travel agents and tour operators, and one of its registered members. The Defendants/Appellants purchased some inventories of the Plaintiff through the GRN portal and utilized the same, and passed it on to the customers. Additionally, invoices/*challans* used to be raised against the Defendants/Appellants by the Plaintiff.

6. According to the Plaintiff/Respondent, there was an outstanding amount of Rs.8,86,660/-, which was not paid by the Defendants/Appellants, despite repeated follow ups. Thereafter, a legal notice was also sent on 24<sup>th</sup> November, 2018, but was not replied. Hence, a suit came to be filed against the Defendants/Appellants.

7. Upon issuance of summons by the Commercial Court, the process server's report records that service was refused. Thereafter, several attempts were made to serve the Defendants/Appellants. However, notices were being returned with various remarks such as '*not available in the house, house blocked, shop closed*'. Under such circumstances, the Defendants/Appellants were proceeded against *ex-parte*, vide order dated 18<sup>th</sup> February, 2022.

8. The Plaintiff/Respondent then led evidence of its witness Mr. Inderjit Mishra as PW-1, who proved various documents, including the ledger account. Since there was no contest by the Defendants/Appellants, the suit was decreed in the following terms:

*"5. On behalf of the plaintiff, PW-1, Mr. Inderjit Mishra, AR/Liasioning Officer of the plaintiff company has been examined who tendered his evidence affidavit Ex.PW1/A, and has proved the following documents:-*

- 1) Ex.PW1/1 : Board Resolution dated 20.08.2019;*
- 2) Ex.PW1/2 : Certificate of Incorporation;*
- 3) Ex.PW1/3 (colly): Invoices/Challans;*



- 4) Ex.PW1/4 : Ledger Account;
- 5) Ex.PW1/5(colly): Downloaded copy of Legal notice and postal receipts;
- 6) Ex.PW 1/6 : Statement of Truth;
- 7) Ex.PW1/7 : Non Starter Report dated 09.05.2019 and
- 8) Ex.PW1/8 : Complaint and
- 9) Ex.PW1/9: Certificate U/s 65-B of Indian Evidence Act.

*Evidence of the plaintiff was closed vide statement of Mr. Inderjit Mishra, Liaisoning Officer of the plaintiff company, recorded on 25.05.2022.*

*6. I have heard the submissions of Mr. Sunil, Id. Counsel for the plaintiff and have perused the record carefully.*

*7. The testimony of PW-1, Mr. Inderjit Mishra alongwith the documents proved on record have remained unrebutted and unchallenged in absence of any cross examination by the defendants and there is no reason to disbelieve the same. The documents proved on record by the plaintiff particularly the various invoices/challans issued to the defendants, Ex.PW1/3 (colly), Ledger Account Ex.PW1/4 and other documents relied upon by the plaintiff have been duly proved on record by Mr. Inderjit Mishra, PW-1. There has been no contest from the side of defendants and nothing has been brought on record on behalf of the defendants to disbelieve the evidence produced on record by the plaintiff. On the basis of oral and documentary evidence proved on record by the plaintiff, this court is satisfied that the plaintiff has proved its case in respect of the due amount of Rs.8,86,660/- on the scale of preponderance of probabilities and the plaintiff is entitled for recovery of the same.*

8. **In view of forgoing discussion and**



**unchallenged testimony of PW-1 and evidence brought on record, suit of the plaintiff is hereby decreed for a total amount of Rs.8,86,660/- (Rupees Eight Lakh Eighty Six Thousand Six Hundred and Sixty only) in favour of the plaintiff company and against the defendants, jointly and severally. The plaintiff has claimed pendente-lite interest and future interest @ 18% p.a. till realization but in the considered opinion of this court, the ends of justice would be met if pendente lite and future interest is granted on the suit amount @ 9% p.a. in view of the prevailing rate of interest. ....”**

9. Against the impugned judgment, the Defendants/Appellants moved an application under Order IX Rule 13 of the Code of Civil Procedure, 1908, (hereinafter, ‘CPC’) seeking to set aside the *ex-parte* decree. In the said application, which was filed along with an application for condonation of delay and waiver of costs, an order was passed on 21<sup>st</sup> July, 2023 with respect to the application for waiver of costs in the following terms:

*“An application for waiver of the costs has been filed on behalf of the defendant/ applicants. In view of the detailed order passed on 06.06.2023 and considering the submissions and circumstances narrated in the instant application, no ground for waiver of the costs is made out. The application for waiving the costs imposed on 06.06.2023 is hereby dismissed. It is being made clear that in ease the said costs is not paid within four weeks from today then the application U/o 9 Rule 13 CPC filed by said applicants would not be considered.*

*Put up for further proceedings on 20.09.2023.”*

10. After the order dated 21st July, 2023 was passed, it is unclear from the record, as to what proceedings took place before the Commercial Court. It is



stated that on 19<sup>th</sup> September, 2023 a review application under Order IX Rule 13 of CPC has been filed against the order dated 21<sup>st</sup> July, 2023. However, the same was not considered and dismissed *vide* order dated 19<sup>th</sup> January 2024. The Defendant/Appellant has not preferred an Appeal against the Order dated 19<sup>th</sup> January 2024.

11. In the meantime, Plaintiff/Respondent filed an execution petition *Execution (Comm.) 99/2025* titled *M/S Aman Travels Ltd. Vs. M/S Nitya World Holidays Pvt. Ltd.*, which is pending before Id. District Judge, Commercial Court-06, Tiz Hazari, Delhi. The records of this proceedings have also not been placed on record by the Defendant/Appellant.

12. However, it is stated by the Defendant/Appellant that an amount of Rs. 1 lakh has been given by them to the Plaintiff/Respondent in the proceedings before the Id. District Judge, Commercial Court -06, Tiz Hazari Courts, Delhi in *Execution (Comm.) 99/2025*.

13. The order dated 10<sup>th</sup> September, 2025 in *Execution (Comm.) 99/2025* records the same in the following terms:

**“An amount of Rs. 1 Lakh in cash has been given by the JD no. 2 and 3 to the counsel for DH against due acknowledgment by the counsel for DH on the previous ordersheet. It is submitted by Ld. Counsel for the JDs that JDs have preferred an appeal against the ex-parte judgment and decree dated 07.09.2022 which is likely to be listed in the coming week. JD is hereby directed to make the balance payment on or before the next date of hearing.**

***Put up for further consideration on 08.10.2025. Both the JDs are hereby directed to appear in person on the next date of hearing.”***



14. Thereafter, the present appeal has been moved seeking setting aside of the impugned judgment dated 7<sup>th</sup> September, 2022 along with an application seeking condonation of delay of 1028 days, in filing the appeal.

15. Heard Id. Counsels for the parties. Even if the application under Order IX Rule 13 of CPC, and other miscellaneous applications for condonation of delay and waiver of cost remained pending till 2023, the delay in filing the appeal would nevertheless be substantial.

16. Moreover, the Defendants/Appellants have also not placed before this Court, the order showing dismissal of the application under Order IX Rule 13 of CPC.

17. Upon a query from the Court, Id. Counsel for the Appellants submits that the execution proceedings have commenced, and the Appellants have deposited a sum of Rs.1 lakh before the Executing Court.

18. Under Section 13(1A) of the Commercial Courts Act, 2015, an appeal is to be filed within a period of 60 days from the date of the judgment/order. In exceptional cases, there may be power to condone some delay in filing of appeals. However, recently, a Co-ordinate Bench of this Court in ***Delco Infrastructure Projects Pvt. Ltd. & Ors. V. Intec Capital Ltd. & Anr., 2025 SCC OnLine Del 2158*** has also refused to condone the delay under Section 13(1A) of the Commercial Courts Act, 2015 in the following terms:

*“11. It is essential to adhere to time lines in matters involving commercial disputes. Any delay in filing appeals under Section 13(1A) of the Commercial Courts Act, 2015 cannot be condoned unless the court is satisfied that the appellants were prevented from sufficient cause from filing the appeal within the stipulated time. The court must be satisfied that such*



*cause is genuine and not an illusion to disguise lack of diligence”.*

19. In the present case, the court is of the opinion that the delay is not condonable, in view of the conduct of the Defendants/Appellants. From the outset, the Defendants/Appellants have –

- failed to file the written statement,
- have not participated in the proceedings,
- have not cross-examined the witnesses,
- have not filed the application under Order IX Rule 13 CPC within the stipulated time,
- avoided the service of process and summons
- not pursued the application for setting aside the decree under Order IX Rule 13 CPC, and
- have not deposited the costs.

20. In view of the aforesaid facts, the Court is not inclined to condone the delay or entertain the present appeal.

21. Accordingly, the appeal, along with pending applications, is dismissed.

**PRATHIBA M. SINGH  
JUDGE**

**SHAIL JAIN  
JUDGE**

**SEPTEMBER 26, 2025/dk/sm**