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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ CS(COMM) 340/2022  
SHRINATH TRAVEL AGENCY THROUGH ITS  
PARTNERS & ANR.

.....Plaintiff

Through: Mr. Tejveer Singh (VC),  
Advocate

versus

HARSH KUMAR TRADING AS SHRINATH NAMA  
TRAVEL AGENCY & ORS.

.....Defendant

Through: Mr. Karan Bajaj, Ms. Aastha  
Arora (VC) Advocates for D-6

**CORAM:**  
**JOINT REGISTRAR (JUDICIAL) Dr. AJAY GULATI**

**ORDER**

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**20.08.2025**

**I.A. No. 8048/2025 on behalf of defendant no. 6 seeking condonation of delay of 89 days in filing the written statement.**

1. Def. no. 6 was impleaded as a subsequent defendant on 16.5.2024. Thereafter, directions were issued by the Hon'ble Court on 18.7.2024 for filing of the amended plaint and for issuance of summons to def. no. 6.

2. On 23.9.2024, relying on plaintiff's *affidavit* of service dt. 13.9.2024, it was recorded by this Court that def. no. 6 stood served on 13.8.2024. However, on 20.11.2024, the amended plaint was formally brought on record after the delay being condoned.

3. Subsequently, written statement has been filed on 18.3.2025. Same has been strongly opposed on the ground that no extension for filing written statement beyond 90 days after the initial 30 days from the date of service of summons, is



permissible in commercial suits.

4. The stiff opposition of the plaintiff for taking on record the written statement has been countered by highlighting a simple fact which is to the effect that amended plaint was ‘*verified*’ on 12.09.2024 and hence, same could **not** have possibly been served on def. no. 6 on 13.8.2024. It was further highlighted that plaintiff in fact had served the unamended plaint on 13.8.2024 which for obvious reasons, cannot be termed as due service of the necessary pleadings.

5. Apart from the aforesaid crucial fact, ld. counsel for def. no. 6 also highlighted that the amended plaint itself came on record on 20.11.2024 and hence, so long as the amended plaint was not on record which contained necessary pleadings qua def. no. 6, there was no occasion for filing written statement on behalf of def. no. 6.

6. Responding to defendant no. 6’s submissions, ld. counsel for the plaintiff argued that copy of the amended plaint had been supplied to def. no. 6 by way of advance service, as far back as on 4.3.2024. This advance service was carried out along with that of IA’s no. 5822/2024 (for impleadment) and IA no. 5480/2024 (for grant of interim injunction). It has further been argued that after ‘Notice’ was issued in the IA for impleading def. no. 6, on 17.4.2024, a copy of the amended plaint had been supplied to def. no. 6 through email, as per the affidavit of service dt. 1.5.2024. Still further, when the amended plaint was filed on 19.9.2024, it was re-served on def. no. 6 on 19.9.2024 itself *i.e.* after def. no. 6 had been formally impleaded. As a corollary, def. no. 6 had been aware all along of the proceedings and was in receipt of the necessary pleadings, and hence, cannot be permitted to contend that the statutory period for it to file a



written statement would commence only after the amended plaint came on record.

7. *Alternatively*, it has been submitted on behalf of the plaintiff that even if 20.11.2024 is taken as the effective date for working out limitation to file a written statement, given that def. no. 6 was in receipt of amended plaint since 19.9.2024, there is absolutely no justification for filing the written statement with such a huge delay which appears to have been done only to delay the suit proceedings. **In response**, it was contended on behalf of def. no. 6 that documents dating back to 1960's had to be collected and for certain documents, application under the RTI Act had to be moved which resulted in delay.

8. *I have carefully considered the rival submissions.*

9. This Court is in agreement with the submission put forth on behalf of def. no. 6 that the effective date for working out the statutory period to file the written statement would commence from the date when the amended plaint was brought on record. It does not need any emphasis that written statement could not have been filed to a plaint which was not on record. As on 20.11.2024, the amended plaint was in defects on account of some delay which, on the oral request of plaintiff counsel, was condoned and the plaint was brought on record. Had the delay not been condoned, amended plaint would have continued to be in objections till it was brought on record as per rules and the corollary of that situation would have been that the Registry would not have taken the written statement of def. no 6 on record since the plaint itself was under defects. It needs a highlight that though the amended memo (post impleadment of def. no. 6) was passed by the Registry on 3.7.2024 (as per the -filing log), yet that would have enabled def. no. 6 only to the extent of filing the



written statement with correct case number but would not have remedied the situation of the amended plaint only not being on record which actually was the pleading to which the written statement had to be filed.

**10.** This brings us to the question whether there has been a justifiable delay in filing the written statement. At the outset, it needs to be underlined that not a single reason has been mentioned in the application explaining the delay. All that has been stated is that the written statement is being filed within the over all condonable period of 120 days and hence, the delay may be condoned. Def. no. 6 seems to be oblivious of the purpose for which the Commercial Courts Act was enacted which is to expedite commercial litigation. Condonation of delay cannot be *fait accompli* simply because the written statement has been filed within the maximum permissible period. Delay can be condoned only for justifiable reasons and even in that situation, delay can be condoned subject to cost. Defendant no. 6 has filed just about 170 pages of documents which in the context of a commercial suit is not much. I have seen the documents some of which are dating back to 1993 but all those documents pertain to def. no. 6 itself and hence, would have been in possession of the defendant even if they had to be dug out from old records. A bulk of these documents have simply been downloaded from the Trade Mark Registry website. The delay has thus been justified only to a small extent.

**11.** This Court is therefore of the opinion that in view of the delay having been explained only minimally and that too verbally, delay can be condoned but subject to some substantial cost as the plaintiff must be suitably compensated. Consequently, the delay in filing the written statement is condoned subject to



cost of Rs. 40000, out of which Rs. 25000 be paid to the plaintiff through its counsel and the rest be deposited with *bharat ke veer* fund (online portal), within 3 weeks, failing which written statement shall be **deemed** to have been taken off the record. Subject to the above, delay stands condoned and written statement is taken on record. Replication be filed within the period permissible as worked out from today. IA stands disposed off.

**I.A. No. 8047/2025 on behalf of defendant no. 6 / applicant for exemption from filing certified, typed, translated, legible, dim underline or defective margin copies of annexures.**

12. In view of IA No.8048/2025 having been allowed, the present IA which is formal in nature also stands allowed. Exemption as sought is allowed. IA stands disposed off.

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13. Matter is already listed before the Hon'ble Court for 03.09.2025. Be placed before the Hon'ble Court on the date already fixed i.e. 03.09.2025, for further directions.

**Dr. AJAY GULATI  
(DHJS),  
JOINT REGISTRAR (JUDICIAL)**

**AUGUST 20, 2025/sk**