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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(COMM) 835/2023

LOUIS VUITTON MALLETTIER

.....Plaintiff

Through: Mr. Anuraj Tirthankar (VC),
Advocate

versus

DURGA TRADING COMPANY AND ORS

.....Defendant

Through: Ms. Priya (VC), Advocate for
D-7.

CORAM:

JOINT REGISTRAR (JUDICIAL) Dr. AJAY GULATI

ORDER

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30.05.2025

I.A. No. 47562/2024 filed by the plaintiff seeking condonation of delay in filing the affidavits of admission and denial to the documents filed by defendant nos. 1 to 6, and defendant no. 7.

1. Plaintiff has moved this composite application seeking condonation of delay of 88 days in filing affidavit of admission & denial to the documents of def. nos. 1 to 6, and an unspecified delay in filing affidavit of admission / denial to the documents of def. no. 7.

2. Ld. Counsel for def. no. 7 had given a no-objection at the outset when notice was issued in the present IA. In any case, it needs a highlight that written statement of def. no. 7 though has been placed on record by the Registry, an application seeking condonation of delay in filing the written statement bearing filing no. E – 1693117 OF 2024 has been under objections since July 2024. Consequently, even otherwise, affidavit of admission &



denial to the documents of def. no. 7 suffers from no delay as the written statement itself has to formally come on record.

3. So far as def. nos. 1 to 6 are concerned, the present IA has been opposed on the ground that plaintiff's affidavit of admission & denial of def.s' documents has to be filed along with the replication, in terms of *Chapter VII, Rule 5* of the Delhi High Court Rules (Original side) 2018. In the present case, same not having been filed along with the replication, cannot be now permitted to be brought on record since the outer limit for filing of replication along with affidavit of admission & denial is 45 days, from the date of receipt of a copy of the written statement *i.e.* as per Chapter VII Rule 5 of DHC Rules 2018 (OS). To buttress the submission, reliance has been placed on a judgement of the Hon'ble High Court of Delhi *i.e. Atlanta Limited vs. National Highways and Infrastructure Development Corporation and Others* MANU/DE/3851/2019, dt. 6.11.2019. The *cited* judgment lays down that there cannot be any extension of max. permissible period to file replication and affidavit of admission & denial alongwith. It was further highlighted by ld. counsel for the def. nos. 1 to 6 that Chapter VII Rule 6 of the 2018 Rules mandates filing of affidavit of admission & denial along with the replication.

4. *In response*, ld. counsel for the plaintiff has submitted that the index of the documents filed by def. no. 1 to 6 alongwith the written statement was not in the prescribed format, as applicable to commercial suits, which resulted in a confusion for the plaintiff as to how should they respond to those docs. in their affidavit of admission & denial. Ld. counsel for defs. no. 1 to 6 countered by submitting that post 12.7.2024, when the written statement was brought on record, plaintiff never raised any



objection on this count even ~~the~~ matter was being repeatedly listed before the Court. However, it was not specifically denied that the index of documents was not in the prescribed format.

5. Further, Id. counsel for the plaintiff has placed reliance on a judgment of the Hon'ble High Court of Delhi *i.e. Louis Dreyfus Company India Pvt. Ltd. vs. Nutrilite Agro products Pvt. Ltd.* 2024 SCC OnLine Del 278 to contend that on a reasonable explanation for delay being furnished, affidavit of admission & denial can be taken on record after condonation of delay even beyond the max. permissible 45 day period. In the afore-cited judgment, Hon'ble Court interpreted Rule 7 of Chapter VII of the Delhi High Court Rules of 2018 (Original side)

6. *I have carefully considered the rival submissions and also gone through the cited judgments.*

7. The judgment cited by Id. counsel for the plaintiff is much later in time. Additionally, in the judgment relied upon by the defs., Hon'ble Court has discussed the implication of Rule 5 of Chapter VII, DHC Rules 2018 (OS), whereas in the judgment relied upon by the plaintiff, Hon'ble Court has interpreted Rule 7 of Chapter VII, DHC Rules 2018 (OS) which specifically deals with filing of affidavit of admission & denial. Replication to the written statement of defs. no. 1 to 6 is already on record. Consequently, the relevant provision of law which needs to be considered and applied is Rule 7 of Chapter VII.

8. This brings us to the question of whether plaintiff has offered a reasonable explanation for filing the affidavit of admission & denial with a delay. Defs. no. 1 to 6 have only filed 2 documents along with the written statement *i.e.* as mentioned in *para B* of the written statement. One of these documents is a Registration certificate under The Punjab Shops and Commercial



Establishment Act, 1958, ~~and~~ ~~the~~ other is authorization letter in favour of def. no. 1 to pursue/defend the present suit on behalf of defs. no. 1 to 6. It needs a *highlight* at this stage that along with the written statement which is on record, no index of the documents has been filed *i.e.* as is required in a prescribed format. **Infact**, the incorrect format of document index which the plaintiff counsel has referred to in his arguments, was filed along with the written statement with e-dairy no. 492976 of 2024. This filing continues to be under objections since 28.5.2024.

9. Subsequently, the written statement was again filed with a different diary no. *i.e.* e – 1756484 of 2024 which is now on record but which does not have the document index. *There is another twist to this factual narration.* Defs. no. 1 to 6 filed an IA bearing no. 33052 of 2024 for seeking condonation of delay in ‘re-filing’ the written statement which was filed under diary no. e – 492976 of 2024 (*i.e.* written statement having incorrect index format). The said IA was allowed but instead, Registry appears to have placed on record the written statement filed with diary no. e – 1756484 which does not have the document index. The filing with diary no. e-492976 of 2024 is still being shown as under objections. Consequently, given this maze of facts referred to above, it is natural to assume that *ld.* counsel for the plaintiff was confused in how to file the affidavit of admission & denial. This Court thus believes that plaintiff has been able to furnish a reasonable explanation for the delayed filing. Hence, the application is **allowed**. The delay qua def. no. 1 and 6 stands condoned. Further, there is no delay qua def. no. 7. Plaintiff’s affidavits of admission & denial to the documents filed by defs. no. 1 to 6, and by def. no. 7 are brought on record.



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10. Plaintiff and defendant nos. 1 to 6 are directed to file their documents in physical form within eight weeks.

11. Put up for completion of pleadings on behalf of defendant no. 7 on 22.09.2025.

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

MAY 30, 2025/sk

Click here to check corrigendum, if any