

Present: Smt. Suparna Ray (JO Code:WB00711)
Judge, Commercial Court at Alipore
Money Suit 25 of 2021
Renumbered as MS (COM) 40 of 2021
CNR No. WBSP18-000086-2021

Order No. 37

Date: 29.11.2024

In the matter of:

Suit for recovery of
declaration and injunction
valued at Rs. 6,64,32,911/-.

AND

In the matter of:

Machino Techno Sales Limited.

Vs.

Machino Transport Private
Limited.

Order

Today is fixed for hearing of the application being I.A. no. 04 of 2022, written objection by the plaintiff, if any, in the meantime.

Both sides file their respective haziras.

Now, the instant application being I.A. no. 04 of 2022 is taken up for hearing.

I.A. No. 04 of 2022

The captioned application corresponds with for acceptance of the written statement filed by the defendant nos. 1,2 and 3 on 28.03.2022, which is lying on this record. However, in spite of direction as stipulated in the previous order of this Court, the plaintiff does not file its written objection and further states that the plaintiff does not even intend to tender any objection to the instant application.

In the instant application the defendants relying on the direction passed by the Hon'ble Apex Court in a *Suo Motu Writ Petitioner (C) No. 03 of 2020 In Re: Cognizance For Extension of Limitation*, seeks for indulgence of this Court to condone the stipulated time frame as ordained in the Code of Civil Procedure, 1908 as amended to the Commercial Courts Act, 2015 to file the written statement in this Court.

On perusal of the aforesaid directives of the Hon'ble Court, it appears that *vide* the Order dated 10.01.2022, the Hon'ble Court has been pleased to

pass the following directives to condone the statutory limitation during the Covid-19 pandemic period;

- a. The period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi judicial proceedings.
- b. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.

In the instant case the defendants filed the written statement in context on 28.03.2022 and the summons was received by them on 12.10.2021 as shown from the track consignment submitted by the plaintiff/petitioner before this Court, therefore, the stipulated time frame of 120 days' flatly falls with the time period from 15.03.2020 to 28.02.2022. So, as per the above directions of the Hon'ble Apex Court, reckoning of limitation period of 90 days' has to be considered from the date of 01.03.2022. Inasmuch as the written statement filed on 28.03.2022, therefore, it is considered that said written statement filed within the stipulated time. So, the same should be accepted.

Hence, the written statement filed by the defendants on 28.03.2022 is hereby accepted.

Accordingly, the I.A. No. 04 of 2022 is hereby disposed of.

It appears from the record that the defendants have filed their additional written statement on 13.09.2024 without filing any petition so as to accept the same. Therefore, let the same only be kept with the record.

Fix the matter on 31.01.2025 at 11:00 a.m. to 12:00 noon for hearing of the injunction application being I.A. No. 01 of 2021.

Parties to act on the basis of the downloaded copy of this Order.

Dictated and corrected by me

Sd/-

Judge, Commercial Court at Alipore,
For South 24 Parganas, Purba Medinipur,
Paschim Medinipur & Jhargram

Sd/-

Judge, Commercial Court at Alipore,
For South 24 Parganas, Purba Medinipur,
Paschim Medinipur & Jhargram