



\$~2

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 371/2022**
M/S KRISHNA INDUSTRIES Plaintiff
Through: Mr. Paras Aggarwal, Advocate
(M:9810600656, e-mail:
parasaggarwaladv@gmail.com)

versus

M/S NIKHIL FOOTWEARS & ORS. Defendants
Through: Mr. Karan Grover, Advocate
(M:9953021511, e-mail:
karan.grover@dhirassociates.com)

CORAM:

MS. VANDANA JAIN (DHJS) JOINT REGISTRAR(JUDICIAL)
ORDER
% **03.05.2023**

I.A No. 3367/2023 (U/O 8 Rule 1 CPC filed D-2 & 3 for condonation of delay of 90 days in filing written statement)

I.A No. 3368/2023 (U/O 8 Rule 1 CPC filed D-1 & 5 for condonation of delay of 90 days in filing written statement)

I.A. 8545/2023 (U/O 8 Rule 1 CPC filed D-4 for condonation of delay of 90 days in filing written statement)

Learned counsel for the plaintiff accepts notice of I.A. No.8545/2023 and submits that he is ready to address argument on all the three applications. Applications are taken up for hearing. Learned counsel for the defendants submits that all the defendants were served through Speed Post on 17.07.2022 and the written statement was filed on 14.11.2022 i.e. within 120 days from the date of service. He further submits that he had explained the reasons which caused delay in filing the written statement within the stipulated time period, in his applications. Learned counsel has argued that the said delay was neither intentional nor deliberate and therefore, I.As be allowed. On the other hand, learned counsel for the plaintiff has argued that



the defendants were served by way of e-mail on 14.07.2022 and therefore, the date of service is 14.07.2022 and not 17.07.2022 and the written statement filed by defendant are beyond the period of limitation.

I have heard the arguments and have perused the record carefully. The service effected through Speed Post is considered as the effective service upon the defendants therefore, the date of service has to be taken as 17.07.2022. Even otherwise, an affidavit of service has been filed by the plaintiff wherein the e-mail attached is dated 21.07.2022 and not 14.07.2022. The written statement has been filed admittedly within 120 days from the date of service. Objections were raised on the same which were duly removed within 5 days. The reasons for delay have been given, however, the careful perusal of the same shows that some of the delay could have been easily avoided by the defendants and the written statements could have been filed earlier. However, keeping in view the fact that the suit is at its initial stage and the defence of the defendants is vital for fair decision of any suit, the written statements of the defendants are taken on record, subject to cost of Rs.2000/- on each of the defendants, payable to the plaintiff. The said cost be paid positively within two weeks. Replication to the written statements be filed in accordance with law thereafter.

All the three IAs are allowed and hence, disposed of.

Put up for completion of pleadings on 22.09.2023.

VANDANA JAIN (DHJS)
JOINT REGISTRAR(JUDICIAL)

MAY 3, 2023/tp