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

+ CS(COMM) 408/2022, I.As. 9316-9318/2022, 13493/2022 & 13506-13507/2022

STERLITE TECHNOLOGIES LTD

..... Plaintiff

Through: Ms. Prachi Agarwal and Ms. Mishthi Dubey, Advocates.

versus

HFCL LIMITED

..... Defendant

Through: Mr. Amit Sibal, Senior Advocate with Mr. Shovan, Mr. Manik Dogra, Mr. Dhruv Pande, Mr. Apoorva Murali, Mr. Ayush Sahay and Ms. Luma Abbas, Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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16.01.2023

I.A. 13481/2022 (delay in filing the written statement and affidavit of admission/denial)

1. The written statement, though delayed by 44 days, is still within the overall condonable period of 120 days provided under Order XVIII, Rule 1 of Code of Civil Procedure, 1908 as applicable to commercial suits. The counsel for the Plaintiff is contesting the application stating that anything beyond thirty days should be cogently explained in order to be entitled to condonation of delay.

2. The reason for the delay has been explained in the application in the following words:

“4. (...) The subject matter of the suit is highly technical in nature and



much time was consumed in collating technical data. Extensive inputs and technical comments were given by the Defendant over the course of days. The Defendant also had sought an opinion from an independent expert.

5. (...) The documents, in particular the prior arts, being relied upon by the Defendant, were in languages other than English and had to be coherently translated. In this regard, each of the documents pertaining to the relevant facts and circumstances were translated over the course of many days. Additionally, the Defendant has also had tests conducted on its apparatus through independent third-party labs, reposts of which have taken time due to backlog and other issues. Due to this technical cum logistical difficulty, the written statement could not be filed within the indicated period.”

Considering the reasons disclosed above, and keeping in mind that the nature of suit (being infringement of a patent) is indeed technical and may require additional time beyond 30 days, the Defendants cannot be non-suited only on account of delay in filing the written statement.

3. Accordingly, the application is allowed and delay is condoned. The written statement is taken on record.

I.A. 729-732/2023 (seeking condonation of delay in filing rejoinder)

4. For the grounds and reasons stated in the applications, the same are allowed. Let rejoinder be taken on record. Disposed of.

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5. Replication be filed to the written statement within thirty days from today.

6. List before the Joint Registrar for completion of pleadings in the suit as well as in the applications on 20th March, 2023.

7. List before the Court on 31st May, 2023.

SANJEEV NARULA, J

JANUARY 16, 2023

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