



\$~1

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

+ **CS(COMM) 583/2019**

SPJ CARGO PVT. LTD.

..... Plaintiff

Through: Ms. Shantha Devi Raman and Mr. Arianth Jain, Advocates appeared physically

versus

SARAH FOODS

..... Defendant

Through: Mr. Karan Batura, Advocate appeared through VC

CORAM:

JOINT REGISTRAR (JUDICIAL) MS. TYAGITA SINGH, (DHJS)

ORDER

%

11.10.2022

Matter is taken up through physical hearing as well as video conferencing.

IA No. 12974/2021 (application filed by defendant u/O VIII Rule 1 CPC) and IA No. 13046/2021 (u/S 151 CPC seeking condonation of delay in re-filing application u/O VIII Rule 1 CPC)

Learned counsel for defendant has stated that there is a delay of 12 days beyond the statutory period of 30 days in filing written statement and there is no delay in re-filing the written statement but he application i.e. IA No. 13046/2021 was filed as abundant caution for condonation of delay in re-filing the application under Order VIII Rule 1 CPC.

However, learned counsel for the plaintiff has strongly objected that the written statement was filed by defendant on 17.03.2020 and it was under objection and it was re-filed on 27.11.2020, but the condonation of delay application was filed after about one and a half years i.e. on 30.09.2021 and



much delay has been caused by defendant in this case by not proceeding diligently.

As per file noting, defendant was served on 13.01.2020 by ordinary summons and after filing of amended plaint, written statement was filed on 17.03.2020 but it remained under objections and objections were removed on 27.11.2020. The case was pending for long time for not filing the application for condonation of delay by defendant, which was finally filed by defendant vide Dy. No. 813093/2021 on 30.09.2021.

Learned counsel for defendant has stated that he had filed application for condonation of delay alongwith written statement, but it was not traceable with the Registry due to COVID-19 Pandemic and he had re-filed the application, due to which delay was caused.

Learned counsel for the plaintiff has objected to the submissions of the learned counsel for defendant.

At request of both the parties, written submissions, if required, may be filed within two weeks.

Keeping in view the abovestated facts and circumstances and fact that much delay has been caused in this case due to abovestated facts and at request of both the parties, matter be placed before the Hon'ble Court on 17th November, 2022, for further directions in the abovesaid IAs.

TYAGITA SINGH, (DHJS)
JOINT REGISTRAR (JUDICIAL)

OCTOBER 11, 2022
savita

CS(COMM) 583/2019

Page 2 of 2