

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

CS-COM/834/2024
IA NO. GA-COM/2/2025

J K ENGINEERING PRIVATE LIMITED
VS
ANE INDUSTRIES PRIVATE LIMITED

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO
Date: June 23, 2025.

Appearance:

Mr. Jayanta Sengupta, Adv.
Mr. Sandip Bandyopadhyay, Adv.
Mr. Sounak Banerjee, Adv.
Ms. Anamika Karmakar, Adv.
...for the plaintiff

Mr. Sourjya Roy, Adv.
... for the defendant

1. Mr. Jayanta Sengupta, Learned Counsel, is appearing for the plaintiff.
2. Mr. Sourjya Roy, Learned Counsel, is appearing for the defendant.
3. The defendant has filed the present application being GA-COM/2/2025 praying for extension of time to file written statement.
4. Counsel for the defendant submits that the defendant has received writ of summons on 24th March, 2025 at Punjab and the defendant has entered appearance on 8th April, 2025 by filling Vakalatnama.
5. The defendant could not file the written statement by 23rd April, 2025 i.e. within 30 days from the date of receipt of writ of summons. Counsel for the defendant submits that the documents which the defendant has relied upon were laying in the Registered Office of the

defendant at Punjab and the same were sent to the Advocate on record of Calcutta. Due to delay in sending documents from Punjab to Kolkata written statement could not be file within 30 days. He submits that though the defendant has not file written statement within 30 days but the defendant has affirmed the written statement on 18th June, 2025 i.e within the period of 120 days and as such he prays for acceptance of the written statement.

6. Per Contra, learned Advocate appearing for the defendant raised objection and submits that as per the report of the Deputy Sheriff of Calcutta, the writ of summons was served upon the defendant through postal service on 15th March, 2025 not on 24th March, 2025 as stated by the defendant.

7. Counsel for the plaintiff further submits that the defendant has not shown any cause why the defendant has not filed the written statement within the period of 30 days.

8. Counsel for the defendant also raised objection if the defendant has affirmed written statement why the defendant has not disclosed the written statement in the present application and he prays for rejection of the application.

9. Heard the learned Counsel for the respective parties. Perused the materials on record.

10. This Court finds that as per the report of Deputy Sheriff, Calcutta on 8th April, 2025, the writ of summons through postal service was served upon the defendant on 15th March, 2025. The defendant has not shown any contrary document or evidence to establish that the writ of summons was served upon the defendant on 24th March, 2025.

11. This Court has taken into consideration with regard to service of writ of summons upon the defendant on 15th March, 2025 and the affidavit of written statement was affirmed by the defendant is on 18th June, 2025 which is within the 120 day. The defendant in the application has categorically mentioned that the registered office of the defendant is at Punjab and due to delay in sending documents from Punjab to Kolkata and for preparation of the written statement, 30 days was over for which the written statement could not be filed. This Court finds that the defendant has shown sufficient cause in non-filing of the written statement within the period of 30 days but has affirmed the written statement on 18th June, 2025 within the period of 120 days.

12. Thus, this Court is of the view that one opportunity should be given to the defendant to file the written statement subject to payment of cost of Rs.5000/- to the State Legal Services Authority within a week from date. The Department is directed to accept the written statement subject to scrutiny by the department.

13. The defendant is directed to serve the copy of the written statement in course of the day and the defendant is also directed to furnish the proof of payment of the cost to the State Legal Services Authority on the next date fixed.

14. GA-COM/2/2025 is disposed of.

15. Counsel for the respective parties draw the attention of this Court to the order dated 9th June, 2025 wherein in paragraph 3 this Court has recorded “the defendant has filed affidavit in opposition” but the same should be read as “the plaintiff has filed affidavit in opposition”. Simultaneously in the last line of the said paragraph

“learned Counsel for the plaintiff” shall be read as “learned Counsel for the defendant”.

(KRISHNA RAO, J.)

DB/Sbghosh