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

+ **O.M.P. (COMM) 235/2016**

M.M.S STEEL & POWER PVT LTD

..... Petitioner

Through: Mr. Vineet Tayal, Ms. Nishtha
Wadhwa and Mr. Shreyanshi
Srivastava, Advocates.

versus

M/S GAIL (INDIA) LIMITED

..... Respondent

Through: Mr. N.L. Ganapathi, Ms. Samya
Chatterjee and Mr. Sidhant Garg,
Advocates.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

% **23.02.2023**

I.A. No. 3626/2023 (for delay)

1. This is an application seeking condonation of delay of 27 days in filing reply to the application for restoration, i.e. I.A. No. 22602/2022.
2. In view of the averments made in the application, the same is allowed and the delay of 27 days in filing the reply to I.A. No. 22602/2022 stands condoned.
3. The application stands disposed of.

I.A. No. 22062/2022 (for restoration)

4. This is an application seeking restoration of O.M.P.(COMM.) No. 235/2016, which was dismissed for non-prosecution on 17.11.2022. It has been averred in the application as under:-

“4. However, in the meantime, due to the advent of the COVID-19 Pandemic, a nationwide lockdown came to be imposed, and the functioning of the Courts came to be severely affected and also



suspended.

5. *On account of the said COVID-19 Pandemic, and in terms of the directions issued by this Hon'ble Court, the present Petition, being of the year 2016, came to be adjourned en-bloc. Accordingly, the date fixed for 04.05.2020, came to be adjourned en-bloc, with further dates also being so adjourned and re-notified upto 23.03.2022.*

6. *That in view of the aforementioned position, the Counsels for the Petitioner/ Applicant, due to sheer inadvertence, missed to keep a track of the present matter - on account of which the Petitioner went unrepresented on 23.03.2022, 25.07.2022 and 17.11.2022.*

True copy of Order dated 23.03.2022 passed by this Hon'ble Court in the captioned Petition is attached herewith as Document No. 2.

True copy of Order dated 25.07.2022 passed by this Hon'ble Court in the captioned Petition is attached herewith as Document No. 3.

True copy of Order dated 17.11.2022 passed by this Hon'ble Court in the captioned Petition is attached herewith as Document No. 4.

7. *That in such circumstances, this Hon'ble Court vide Order dated 17.11.2022, dismissed the present Petition for non-prosecution.*

8. *That while checking for the status of the matter in the second week of December, 2022, the Counsel for the Petitioner became aware of the aforesaid Order dated 17.11.2022. It is in such circumstances, that the Petitioner has preferred the present Application seeking restoration of the captioned Petition."*

5. In the reply filed on behalf of the respondent, the application has been opposed primarily on the ground that restoration application was filed belatedly after the expiry of the prescribed period of limitation.

6. In response, Mr. Vineet Tayal, learned counsel for the petitioner has pointed out that, in fact, the restoration application came to be filed on



17.12.2022, vide diary no. 2068168/2022.

7. In view of the aforesaid, and having considered the averments made in the application and the submissions made by the respective counsel, the present application is allowed. Present O.M.P. (COMM) No.235/2016 is restored to its original number.

O.M.P. (COMM) 235/2016

8. Learned counsel for the respondent submits that the arbitral award which has been assailed in the present petition is dated 18.02.2014. He submits that the awarded amount be directed to be deposited in the Court.

9. Learned counsel for the respondent is at liberty to file an appropriate application seeking enforcement of the award, which shall be considered on its own merits, and subject to the rights and contentions of the petitioner.

10. List on 10th May, 2023.

SACHIN DATTA, J

FEBRUARY 23, 2023

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