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

% **Date of Decision: 23<sup>rd</sup> March, 2026**

+ CS(COMM) 800/2025 & I.A. 7470/2026, O.A. 59/2026

IDBI TRUSTEESHIP SERVICES LIMITED .....Plaintiff  
Through: Mr. Pranjit Bhattacharya, Ms. Salonee Shukla, Ms. Souravi Das, Ms. Shalini Singh, Advocates (M:8980006115)

versus

MANISH JAIN & ORS. ....Defendants  
Through: Mr. Sarul Jain, Advocate for D-1 (M:9899455459)  
Mr. Rajat Joneja, Ms. Sakshi Kapoor, Ms. Tina Aneja, Advocates for D-2 (M:9999185553)

**CORAM:  
HON'BLE MS. JUSTICE MINI PUSHKARNA**

**MINI PUSHKARNA, J. (ORAL)**

**I.A. 7470/2026**

1. The present application has been filed on behalf of defendant no. 2 seeking condonation of delay of 14 days in filing the *O.A. 59/2026*.
2. In view of the submissions and the averments made in the application, the delay of 14 days in filing the original appeal is condoned.
3. The application is accordingly disposed of.

**O.A. 59/2026**

4. The present appeal has been filed on behalf of defendant no. 2 under Chapter II Rule 5 of the Delhi High Court (Original Side) Rules, 2018 read with Section 151 of Code of Civil Procedure, 1908 ("CPC"), seeking setting aside of the impugned order dated 27<sup>th</sup> January, 2026, passed by the learned



Joint Registrar (Judicial).

5. It is submitted that by way of the impugned order dated 27<sup>th</sup> January, 2026, learned Joint Registrar (Judicial) has closed the right of the defendant no. 2 to file written statement.

6. It is submitted that the plaintiff filed company petition under Section 95 of the Insolvency and Bankruptcy Code, 2016 (“IBC”) against defendant no. 2, for initiating personal insolvency proceedings before the National Company Law Tribunal (“NCLT”), New Delhi Bench. *Vide* order dated 20<sup>th</sup> February, 2025, an Interim Resolution Professional was appointed for the defendant no. 2 herein.

7. Thus, it is submitted that, upon admission, an interim moratorium under Section 96 of the IBC, came into effect automatically. It is submitted that the present suit has been filed subsequently in July, 2025 and summons were issued on 05<sup>th</sup> August, 2025.

8. Thus, it is submitted that once a moratorium is in effect, no suit against defendant no. 2 could have been filed, and on that ground, there was no question of running of any time for filing of written statement. He further submits that the aforesaid aspect was not noted by the learned Joint Registrar (Judicial), at the time of passing the impugned order.

9. Learned counsel for defendant no. 2 further submits that defendant no. 2 had filed an application for rejection of the plaint under Order VII Rule 11 CPC. He, thus, submits that in view of the pendency of the aforesaid application, defendant no. 2 was not required to file the written statement. He relies upon various judgments of this Court and the Supreme Court in this regard.

10. *Per contra*, learned counsel for the plaintiff submits that the statutory



period of 120 days for filing the written statement by defendant no. 2 expired on 03<sup>rd</sup> December, 2025. He further submits that he subsequently moved an application for closing the right of defendant no. 2 to file written statement.

11. He submits that application under Order VII Rule 11 CPC for rejection of plaint was filed on behalf of defendant no. 2, only subsequently.

12. On a pointed query by this Court, learned counsel for defendant no. 2 does not dispute the timelines as indicated by learned counsel for the plaintiff.

13. Having heard learned counsels for the parties, this Court notes the relevant dates, which are undisputed, as follows:

|      |                                 |   |
|------|---------------------------------|---|
| I.   | 03 <sup>rd</sup> December, 2025 | Outer limit of statutory period for filing the written statement, i.e., 120 days, expired.  |
| II.  | 05 <sup>th</sup> December, 2025 | Application, i.e., <i>I.A. 30796/2025</i> filed by the plaintiff for closure of right of defendant no. 2 to file written statement. |
| III. | 09 <sup>th</sup> December, 2025 | Notice was issued in the aforesaid application.   |
| IV.  | 14 <sup>th</sup> December, 2025 | Application under Order VII Rule 11 CPC, i.e., <i>I.A. 32519/2025</i> , filed by defendant no. 2 for rejection of the plaint.       |

14. Perusal of the aforesaid undisputed timelines clearly show that application under Order VII Rule 11 CPC for rejection of the plaint, was filed by defendant no. 2 only on 14<sup>th</sup> December, 2025, much after the statutory period of 120 days for filing of written statement, had expired.

15. The defendant no. 2 has relied upon judgments of the Supreme Court to submit that once an application has been filed by a defendant for rejection



of the plaint under order VII Rule 11 CPC, the said application is to be considered first, and that time for filing the written statement has to be given to such defendant, only after decision in the application for rejection of plaint. There is no quarrel with the said proposition. However, once statutory period for filing written statement has already lapsed, subsequent filing of an application for rejection of plaint by a defendant will not revive such statutory period for filing written statement. Therefore, filing of an application for rejection of plaint by defendant no. 2 after lapse of statutory period for filing written statement, will not entitle the defendant no. 2 for grant of any extension of time for filing written statement on that ground.

16. In this regard, reference may be made to the Judgment of Supreme Court in the case of ***R.K. Roja Versus U.S. Rayudu and Another, (2016) 14 SCC 275***, wherein, it has been held as follows:

“xxx xxx xxx

**5. Once an application is filed under Order 7 Rule 11 CPC, the court has to dispose of the same before proceeding with the trial. There is no point or sense in proceeding with the trial of the case, in case the plaint (election petition in the present case) is only to be rejected at the threshold. Therefore, the defendant is entitled to file the application for rejection before filing his written statement. In case the application is rejected, the defendant is entitled to file his written statement thereafter (see Saleem Bhai v. State of Maharashtra [Saleem Bhai v. State of Maharashtra, (2003) 1 SCC 557]). But once an application for rejection is filed, the court has to dispose of the same before proceeding with the trial court. To quote the relevant portion from para 20 of Sopan Sukhdeo Sable case [Sopan Sukhdeo Sable v. Charity Commr., (2004) 3 SCC 137]: (SCC pp. 148-49)**

“20. ... Rule 11 of Order 7 lays down an independent remedy made available to the defendant to challenge the maintainability of the suit itself, irrespective of his right to contest the same on merits. The law ostensibly does not contemplate at any stage when the objections can be raised, and also does not say in express terms about the filing of a written statement. Instead, the word “shall” is used, clearly implying thereby that it casts a duty



*on the court to perform its obligations in rejecting the plaint when the same is hit by any of the infirmities provided in the four clauses of Rule 11, even without intervention of the defendant.”*

6. In *Saleem Bhai case [Saleem Bhai v. State of Maharashtra, (2003) 1 SCC 557]*, this Court has also held that: (SCC p. 560, para 9)

*“9. ... a direction to file the written statement without deciding the application under Order 7 Rule 11 cannot but be a procedural irregularity touching the exercise of jurisdiction by the trial court.”*

**However, we may hasten to add that the liberty to file an application for rejection under Order 7 Rule 11 CPC cannot be made as a ruse for retrieving the lost opportunity to file the written statement.**

xxx xxx xxx”

*(Emphasis Supplied)*

17. Perusal of the aforesaid judgment makes in manifest that the Supreme Court has categorically held that a defendant is entitled to file an application for rejection of plaint under Order VII Rule 11 of the CPC, before filing the written statement. In case the application is rejected, the defendant is entitled to file its written statement thereafter.

18. However, the Supreme Court has clarified that filing of an application for rejection of plaint by a defendant will not retrieve a lost opportunity, meaning thereby, once the statutory period of filing the written statement has elapsed, subsequent filing of an application under Order VII Rule 11 of the CPC, for rejection of plaint by the defendant, would not revive the said statutory period.

19. Accordingly, it is held that once the statutory period of filing the written statement has elapsed, any subsequent filing of an application under Order VII Rule 11 of the CPC, shall not revive the statutory period in any manner whatsoever, and shall not extend the statutory period for filing the written statement.



20. In this regard, judgment dated 15<sup>th</sup> May, 2025, passed in *CM(M) 900/2025*, titled as *Zenith Vipers Solutions Pvt. Ltd. Versus Jasmeet Singh Marwah*, is referred to, wherein, it has been held as under:

“xxx xxx xxx”

**18. Merely, because an application under Order VII Rule 11 CPC has been filed and is pending adjudication would not ipso facto extend the period of limitation meant for filing of written statement.**

*Reference in this regard be made to SCG Contracts (India) (P) Ltd. v. K.S. Chamankar Infrastructure (P) Ltd., (2019) 12 SCC 210 wherein Hon’ble Supreme Court clarified as under:-*

*“14. The learned counsel appearing for the respondents also relied upon R.K. Roja v. U.S. Rayudu [R.K. Roja v. U.S. Rayudu, (2016) 14 SCC 275 : (2017) 3 SCC (Civ) 270] for the proposition that the defendant is entitled to file an application for rejection of plaint under Order 7 Rule 11 before filing his written statement. We are of the view that this judgment cannot be read in the manner sought for by the learned counsel appearing on behalf of the respondents. Order 7 Rule 11 proceedings are independent of the filing of a written statement once a suit has been filed. In fact, para 6 of that judgment records: (SCC p. 277)*

*“6. ... **However, we may hasten to add that the liberty to file an application for rejection under Order 7 Rule 11 CPC cannot be made as a ruse for retrieving the lost opportunity to file the written statement.**””*

xxx xxx xxx”

*(Emphasis Supplied)*

21. Accordingly, the plea of the defendant no. 2 that its right for filing the written statement ought not to have been closed, since an application under Order VII Rule 11 of the CPC had been filed subsequently, cannot be accepted and the same is rejected.

22. As regards the contention of the defendant no. 2 with regard to interim moratorium operating under Section 96 of the IBC on account of which, the suit against the defendant no. 2 is not maintainable, the same is subject matter of an application filed on behalf of defendant no. 2 under



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Order VII Rule 11 CPC, for rejection of the plaint, i.e., *I.A. 32519/2025*. Accordingly, this aspect shall be considered by the Court while adjudicating the aforesaid application filed on behalf of defendant no. 2.

23. Noting the aforesaid, no merit is found in the present appeal, the same accordingly, dismissed.

**CS(COMM) 800/2025**

24. It is to be noted that reply in *I.A. 32519/2025*, has been filed on behalf of the plaintiff.

25. Learned counsel for defendant no. 2 seeks and is granted liberty to file rejoinder to the said reply filed on behalf of the plaintiff, to the aforesaid application.

26. Let the needful be done, within a period of four weeks, from today.

27. List before the Joint Registrar (Judicial) on 06<sup>th</sup> July, 2026, i.e., the date already fixed.

**MINI PUSHKARNA, J**

**MARCH 23, 2026/au**