UPLOADED ON 27.04.2026

IN THE COURT OF P RINCIPAL COMMERCIAL COURT,
EGMORE, CHENNAI

Present: Thiru. S.GANAPATHISAMY B.A.B.L
Principal Judge,

Dated this 27th day of April 2026, Monday

I.A.Nos. 6 and 7 of 2026 in I.A..No.5 of 2025 in C.O.S.No.94 of 2022

M/s. Raj Rail Tech Private Limited,
Represented by its Managing Director,
Mr. D.Ramraj,
No.17/1, Zakaria Colony, 2nd Street,
Choolaimedu,
Chennai – 600 094. Petitioner/Petitioner/Plaintiff
in both applications

Versus

M/s. Aqua Lung-La Spirotechnique I.C.,
Represented by its OPS Export Manager,
Mr. Olivier Beauchamps,
OPS Division,
LID, 1st Avenue 4443 m,
06513 Carros,
France. Respondent/Respondent/Defendant

These Petitions coming on 10.03.2026 for final hearing before me in the presence of M/s. R. Thiagarajan, Vasudha Thiagarajan and K. Seetharaman, the

learned counsels for the petitioner/plaintiff in both applications; of M/s. S. Arjun Suresh, Raghavendra Ross Divakar, Apoorva Vinjamur, Anisha Gupta, B.Gautham, and Divyapriya. T, of M/s. Dua Associates, the learned counsels for the Respondent/Defendant and hearing the arguments of both sides and having stood over for consideration till this day and this court today delivers the following:

COMMON ORDER

The Petitioner/Plaintiff has filed I.A.No.6 of 2026 under section 148 of Code of Civil Procedure to enlarge time for remittance of conditional amount of Rs.10,000/- to the defendant pursuant to the order in I.A.No.5 of 2025 dated 11.12.2025. He has filed I.A.No.7 of 2026 to restore I.A.No.5 of 2025 which was dismissed on 18.12.2025 for non compliance of conditional order .

The averments of the Common Affidavit filed in support of these Applications are shortly as follows:-

1, The application filed by the plaintiff in I.A No.4 of 2025 for condonation of delay in taking steps to restore the suit which was dismissed for default was allowed subject to condition to remit a sum of Rs.3,000/- to the defendant and after the compliance of the order, the above application was allowed on 30.07.2025. The restoration application in I.A.No.5 of 2025 was reserved for order on 11.12.2025. Due to inadvertence and oversight, junior counsel for the plaintiff has wrongly noted the hearing date as 18.12.2025 in stead of 11.12.2025 and only on 18.12.2025, he came to know that the matter was reserved for passing order on 11.12.2025 and it was allowed on 11.12.2025 subject to payment of Rs.10,000/- as cost to the

defendant on or before 17.12.2025 returnable by 18.12.2025. Only due to the mistake of the junior counsel, the cost could not be paid as ordered by this Court and the plaintiff should be permitted to pay the cost.

The averments of the Common Counter affidavit filed by the Respondent/defendant are shortly as follows:

2. The suit filed by the plaintiff in C.S.No.231 of 2016 before High Court was transferred to City Civil Court, Chennai as O.S. No.7126 of 2019 and thereafter it has been transferred to this Court and renumbered as COS No.94 of 2022. The defendant filed his written statement even on 21.03.2016 itself. The plaintiff did not commence trial before the City Civil Court and Commercial Court despite multiple opportunities afforded to the plaintiff. The suit was dismissed for default on 09.12.2022 for failure of the plaintiff to commence the trial. The suit was again restored on 12.06.2023 based on the affidavit filed on behalf of the counsel for plaintiff. Thereafter this Court listed on multiple dates for trial and finally plaintiff filed his proof affidavit only on 10.07.2024 . He did not appear for cross examination between 19.07.2024 and 20.11.2024. Therefore, this Court closed the cross examination of PW1 and posted the case for plaintiff side further evidence on 20.11.2024. The plaintiff as well as his counsel failed to appear before this Court. Therefore, the suit was dismissed for default. This Court condoned the delay of 84 days in I.A No.4 of 2025 in taking steps to restore the suit on payment of cost of Rs.3,000/- . This Court heard I.A.No.5 of 2025 to restore the suit and adjourned the matter to 11.12.2025 for orders and passed orders to allow the application subject to the payment of cost of Rs.10,000/- by the plaintiff to the defendant on or before 17.12.2025 and posted the matter to 18.12.2025. Neither the plaintiff nor his counsel

appeared before this Court and failed to pay the cost. Therefore, the restoration petition was dismissed. Therefore the suit was dismissed for 3rd time on 18.12.2025. The reason provided by the petitioner is not bonafie. The counsel for the petitioner did not appear on 18.12.2025. Therefore the petition is liable to be dismissed.

3. Both side Heard.

4. The learned counsel for the plaintiff submitted that the plaintiff should not be penalised for the default of his counsel. The learned counsel cited a decision reported in Manu/SC 0076/1981 in Rafiq Vs Munshilal and others for his contention that the party should not suffer for inaction or deliberate omission or misdemeanour of his counsel. On the other hand, the learned counsel for the respondent submitted that the reason assigned by the plaintiff is not sufficient and as per decision of Delhi High Court in M/s. Om Fire Safety Company Pvt Ltd Vs Umakant 's case, the time line fixed in the Commercial Courts should be strictly adhered to and as a consequence of non payment of cost , the defaulting party has to be prohibited from participating in further proceedings. The judgment of Hon'ble Supreme Court reported in (2010)1 SCC 153 in Manohar Singh Vs D.S. Sharma was relied on by the Delhi High Court.

5. I considered the submissions made on either side. As correctly pointed out by the learned counsel for the respondent, the suit was earlier dismissed for default on 09.12.2022. Based on the application filed by the plaintiff in I.A.No. 2 of 2022, the suit was restored on 10.03.2023. The case has been ready for trial from 03.02.2020 itself. But the plaintiff has succeeded in procrastinating the proceedings for about 4

years without any reason. This Court granted sufficient time. Inspite of that he failed to appear for cross examination. This Court has generously condoned the delay in taking steps to restore the suit which was dismissed for default for 2nd time. This Court ordered to restore the suit in I.A.No.5 of 2025 subject to payment of cost of Rs.10,000/- on or before 17.12.2025. It is the case of the plaintiff that his junior counsel wrongly noted as 18.12.2025 instead of 11.12.2025. The notes paper in I.A No.5 of 2025 would show that even on 18.12.2025, there was no representation on the side of the plaintiff. Therefore the reason assigned by the petitioner in his affidavit is not true. The plaintiff again and again left the matter for dismissal and used to filed the application to restore the suit. Where the counsel has not appeared before this Court, the plaintiff ought to have appeared before this Court. Where ill health of the petitioner did not permit him to appear before this Court, at least he ought to have nominated some other person on behalf of the plaintiff. The plaintiff has deliberately not appeared before this Court and he has not been diligent in pursuit of the suit. The reason is not sufficient. Both the applications are devoid of merits.

In the result, I.A.Nos.6 and 7 of 2026 are dismissed with the cost of the respondent.

Dictated by me to the Steno-Typist, directly typed by him in the computer, corrected and pronounced by me in the open court, this 27th day of April 2026.

GANAPATHI SAMY

Digitally signed by GANAPATHI SAMY
Date: 2026.04.27 20:06:26 +0530

Principal Judge
Principal Commercial Court
Egmore, Chennai.

Draft/ Fair Common Order in
I.A.Nos. 6 and 7 of 2026
in
I.A.No.5 of 2025
in
C.O.S.No. 94 /2022
Date: 27.04.2026

Principal Commercial Court,
Egmore, Chennai.