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

% ***Date of Decision: 15th April, 2025***

+ CM(M) 220/2024 & CM APPL. 6870/2024

M/S GLOBAL SALES INDIA & ANR.Petitioner

Through: Mr. Pankaj Gupta and Mrs. R. Gupta,
Advocates.

versus

AMIT SHARMARespondent

Through: Mr. Durgesh Gupta and Mr. Sahil
Singh, Advocates

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioners are defending a recovery suit which is commercial in nature. They are aggrieved by order dated 16.01.2024 whereby plaintiff's request to place on record additional document has been allowed.
2. In order to understand and comprehend the controversy appropriately, let me make reference, in brief, to the pleadings.
3. Plaintiff Amit Sharma (respondent herein) is sole proprietor of *M/s Aria International* and is engaged in business of 'Micron Bopp Film'. Defendants approached them for purchase of film of different specifications. Pursuant to one order placed by them, goods were delivered by plaintiff while raising Invoice No. 702/MUNDKA/21-22 dated 23.02.2022 for Rs. 12,10,697/-. Such goods were received by the defendants but since the payment thereto did not come forward, despite following up the matter with the defendants, plaintiff filed the aforesaid suit seeking recovery.
4. Defendants do admit that order was placed by them upon the plaintiff but according to them there were two different orders. They also claim that the plaintiff used to insist for payment in advance. As against the first order,



the invoice had been raised on 21.02.2022 and against such invoice, defendants made RTGS payment on 23.02.2022 and the delivery was made by the plaintiff only after receiving the aforesaid payment. According to them, since they required more goods, they asked plaintiff to supply further goods and it was in that context that plaintiff had raised invoice dated 23.02.2022. Plaintiff, in the similar manner, asked for payment, before delivery of the goods. However, before such payment could be processed, they noted the quality of the goods, which they had purchased against the earlier invoice, was not upto the mark and they, immediately, brought the matter to the knowledge of plaintiff who, however, came up with baseless explanation.

5. According to defendants, it was in the aforesaid backdrop that they asserted that payment with respect to invoice dated 23.02.2022 would be made only after assuring themselves about the quality of the goods, to be delivered. Since such condition was not acceptable to the plaintiff, defendants refused to purchase the goods and asked the plaintiff to cancel the invoice. Their further version is that the plaintiff, however, told them that as per the accounting system, invoice could not have been cancelled and in such circumstances, it was assured by the plaintiff that since no goods were being delivered/supplied to the defendants against the said Invoice, let such invoice, as generated by the Plaintiff, remain as it is but the payment thereto will be squared off in the accounts of the Plaintiff.

6. Thus, all in all, according to defendants, there were two different deliveries and with respect to the delivery purportedly made under invoice dated 23.02.2022, actually speaking, it was only a paper invoice and nothing has been delivered against such invoice dated 23.02.2022.



7. Following issues have already been framed by the learned Trial Court:-
- (i) *Whether the plaintiff is entitled for recovery of Rs. 12,76,664.24/- as prayed ? (OPP)*
- (ii) *Whether the plaintiff is entitled to interest? If yes at what rate. (OPP)*
- (iii) *Whether the plaintiff has supplied the goods to the defendant as per the invoice mentioned in the plaint? (OPP)*
8. When the case was fixed for recording of plaintiff's evidence, a request was made by the plaintiff by moving an application under Order XI Rules 1 & 2 read with Section 151 CPC and permission was sought to place on record one additional document i.e. the invoice dated 23.02.2022 containing the acknowledgement of the defendant *qua* the acceptance of the goods.
9. Such application was opposed by the defendants.
10. However, learned Trial Court, vide impugned order dated 16.01.2024, has allowed such original invoice to be placed on record.
11. Such order is under challenge.
12. Learned counsel for respondent/plaintiff appears on advance notice and submits that though the present petition lacks any merit or substance, plaintiff can, irrespective of said acknowledged invoice, prove his case on the basis of the original invoice which he has already placed on record and, therefore, even if acknowledged copy of the invoice is disregarded or sidelined, no prejudice is going to be caused to him. He, therefore, submits that, without prejudice to rights and contentions of the respondent/plaintiff, he would have no objection if the present petition is allowed to the aforesaid extent.
13. Learned counsel for petitioner/defendant, whereas submits that it was a fit case where the learned Trial Court should not have given any further indulgence to the plaintiff. It is submitted that the procedure and provisions



made for any Commercial suit are very stringent and rigid and since no cause, much less a reasonable one, was shown, the learned Trial Court should not have taken on record the alleged copy of acknowledged invoice.

14. Be that as it may, in view of the statement made at the Bar by learned counsel for respondent/plaintiff, the present petition is disposed by directing that the learned Trial Court may proceed further with the matter, while disregarding the acknowledged copy of the invoice which was permitted to be placed on record on 16.01.2024.

15. It is, however, made clear that the present order has been passed on the basis of the statement made by learned counsel for respondent, which is without prejudice to their rights and contentions, and, therefore, such concessions should not be construed as an adverse circumstance against the plaintiff.

16. Next date before the learned Trial Court is stated to be 01.05.2025 for plaintiff's evidence.

17. Learned Trial Court is also requested to expedite the disposal of the suit. Needless to say, both the sides would render their due assistance and co-operation to the learned Trial Court in this regard.

18. The petition, along with pending application, if any, stand disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

APRIL 15, 2025/dr/js