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

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Date of Decision : 07.05.2025

+ **ITA 134/2025**

PR. COMMISSIONER OF INCOME TAX
(CENTRAL), LUDHIANA

.....Appellant

Through: Mr Puneet Rai, SSC, Mr Ashvini
Kumar and Mr Rishabh Nangia, SCs
and Mr Nikhil Jain, Advocate.

versus

GARG ACRYLIC LTD.

.....Respondent

Through: Mr. Rohit Jain and Mr Saksham
Singhal, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TEJAS KARIA

VIBHU BAKHRU, J. (ORAL)

CM APPL. 27605/2025(condonation of delay in refiling)

1. For the reason stated in the application, the delay of 35 days in refiling the above captioned appeal stands condoned.
2. The application stands disposed of.

ITA 134/2025 & CM APPL. 27604/2025(Exemption)

3. The Revenue has filed the present appeal under Section 260A of the Income Tax Act, 1961 [**the Act**], *inter alia*, impugning the order dated



30.09.2024 [**impugned order**] passed by the learned Income Tax Appellate Tribunal [**ITAT**] in ITA No.2562/Del/2023 in respect of the Assessment Year [**AY**] 2011-12 captioned *Garg Acrylics Limited v. DCIT*.

4. The Assessee had preferred the aforesaid appeal impugning the order dated 04.01.2019 passed by the Commissioner of Income Tax (Appeals)-5, Ludhiana [**CIT(A)**] dismissing the assessee's appeal against the assessment order dated 30.11.2018 passed under Section 147 read with Section 143(3) of the Act.

5. The present case indicates the travails of the Assessee being vexed with multiple assessment proceedings. The Assessee had filed its return of income for the AY 2011-12 on 19.09.2011 declaring an income of ₹31,41,11,875/-. The said return was picked up for scrutiny and the assessment proceedings culminated into the assessment order dated 31.03.2014 whereby the Assessing Officer [**AO**] assessed the Assessee's total income for the relevant AY as ₹71,82,51,221/-.

6. The additions made by the AO were subject matter of the appeal preferred by the Assessee before the CIT(A), which was allowed and the additions made were set aside by an order dated 30.09.2014. The Revenue appealed the decision of the CIT(A) in allowing the Assessee's appeal before the learned ITAT. However, the Revenue was unsuccessful and the said appeal was dismissed by an order dated 27.10.2020 passed by the learned ITAT.

7. Since, the Assessee's return had been duly scrutinized by the AO and the additions made were not sustained, in normal course, the matter should



have rested at that stage. However, the AO found information, which provided the reasons to believe that the income of the Assessee had escaped assessment on account of certain purchases which, according to the AO, were suspect. The AO found that certain persons from whom the Assessee had purchased the goods were involved in certain bogus transactions. Accordingly, on 17.03.2017, the AO issued the notice under Section 148 of the Act and framed the assessment order assessing the Assessee's income for the AY 2011-12 at ₹32,07,74,970/-. The AO made an addition at the rate of 20 percent of the amount of the purchases, which according to the AO were made from the concerned vendors.

8. The Assessee appealed the said decision before the CIT(A) and the CIT(A) passed an order dated 24.07.2018 restricting the disallowance to 16.26 percent of the purchases in question instead of 20 percent, as assessed by the AO.

9. The Assessee appealed the said CIT(A)'s order dated 24.07.2018 before the learned ITAT. The Revenue also preferred a cross appeal against the said order to the extent that the CIT(A) had restricted the disallowance. The learned ITAT had allowed the Assessee's appeal and dismissed the appeal filed by the Revenue.

10. One would expect, that once the Assessee's return of income had been subject matter of assessment twice and the Assessee had battled the additions up to the learned ITAT, the matter of assessment of income would stand concluded. However, that was not to be.

11. Thereafter, began the third round of assessment. The AO received



certain information from Gurgaon Investigation Wing of the Department to the effect that the Assessee had paid a sum of ₹47,91,307/- and ₹1,14,22,326/- during the previous relevant AY 2011-12 to one M/s.Ramesh Kumar, Tarun Kumar and Sh.Kushal Kumar Jain [Proprietor of M/s. Mittal Traders] allegedly on account of bogus purchases of cotton. This triggered the AO to issue yet another notice under Section 148 of the Act on 28.03.2018.

12. Notwithstanding, that the purchases made by the Assessee had been subject matter of the scrutiny in the original proceedings which had culminated into the assessment order dated 31.03.2014 as well as the reassessment proceedings that had culminated into the order dated 30.12.2017. The AO once again made an addition at the rate of 20 percent of the purchases made from the aforesaid two parties quantified at ₹32,42,726/- and passed the assessment order dated 30.11.2018 under Section 147 read with Section 143(3) of the Act.

13. The Assessee filed an appeal against the said order, which was dismissed by the CIT(A) by an order dated 31.05.2023. The CIT(A) not only affirmed the findings that the purchases made by the Assessee were bogus, but also enhanced the disallowance from 20 percent to the entire amount of the purchases of ₹1,62,13,633/- under Section 69C of the Act. It is material to note that the CIT(A) held that the said suppliers were non-existent.

14. The Assessee appealed the said decision dated 31.05.2023 of the CIT(A) before the learned ITAT, which is allowed in terms of the impugned



order.

15. A plain reading of the order dated 31.05.2023 passed by the CIT(A) indicates that the CIT(A) was moved by the assessment orders made in the case of two persons from whom allegedly bogus purchases were made by the Assessee. It was noted that the assessment orders framed in respect of the said two persons indicated that large amounts of cash had been deposited in their bank accounts and had been withdrawn. The AOs having jurisdiction over the said two persons had thus, made certain additions on the basis of certain transactions which they found were bogus. However, it is clear from the order passed by the CIT(A) that there was no specific reference made by the AOs of the respective two persons to the purchases made by the Assessee. More importantly, the additions made in the case of the two specified vendors were based on the finding that certain cash deposits and withdrawals from their accounts related to bogus transactions.

16. In so far as the Assessee is concerned, there is no allegation that the Assessee had made any payment in cash in respect of the purchases in question. Thus, no connection is shown between the Assessee's transaction of purchases and the transactions of deposits and withdrawals in cash from the bank accounts of the two individuals [M/s.Ramesh Kumar, Tarun Kumar and Sh.Kushal Kumar Jain [Proprietor of M/s. Mittal Traders]

17. In appeal, the learned ITAT perused the material on record and found that the Assessee had in fact established that its purchases were genuine. The relevant extract of the decision of the learned ITAT is set out below:-

“5. Another reopening notice u/s 148 of the Act



stood issued to the assessee on 28.3.2018 after recording of reasons based on the information received from the office of ITO (Investigation) Gurgaon that the assessee has made payment of Rs 47,91,307/- during the year to M/s Ramesh Kumar Tarun Kumar, Prop. Tarun Kumar on account of purchase of cotton. As per another information received from the said office of the ITO (Investigation), Gurgaon, that a sum of Rs 1,14,22,326/- has also been received by Shri Kaushal Kumar Jain, Prop. M/s Mittal Traders, Adampur, Hisar from the assessee company. It was further informed that as per enquiries conducted and also through Inspector, Shri Kaushal Kumar Jain, Prop. Mittal Traders could not be found on the given address. The Id. AO made disallowance amounting to Rs 32,42,726/- being 20% of Rs 1,62,13,633/-, purchases made by the assessee company from M/s Ramesh Kumar Tarun Kumar and M/s Mittal Traders, solely based on the information received from investigation and the said parties have not responded to the summons/notices issued to them and also they were not found at the given addresses. The Id AO also observed that in the case of M/s Ramesh Kumar Tarun Kumar, there are cash deposits in bank accounts and cash was immediately withdrawn from the bank accounts. As such, it was concluded by the investigation wing that credits in their bank accounts remained unexplained. **The assessee from its side, in order to prove the genuineness of purchases made from these two concerns, furnished copies of ledger accounts, purchase invoices, material, receipt notes, suppliers balewise weight note, copies of VAT D-3, weight slip at factory premises, laboratory test report in factory of the assessee of goods purchased, details of excise register/ records**



maintained, bank statements showing payments made through banking channels. All these details were summarily brushed aside by the Id. AO added the profit element embedded in the value of purchases from these two concerns by estimating the profit at 20% thereon and made an addition of Rs 32,42,726/-”

[emphasis added]

18. It is clear from the above that the learned ITAT had concluded that the Assessee had established the purchases made from the named two persons and the same could not be considered as bogus. Thus, the findings of fact, which are premised on a cogent material cannot by any stretch of imagination be termed as perverse or unsustainable.

19. We also note that this appeal would not be maintainable on account of tax effect being lower than the threshold limit of ₹2.00 Crores, as stipulated in Central Board of Direct Taxes Circular dated 17.09.2024. However, the Revenue insists on presenting the present appeal on the ground that this case falls within exception of cases relating to accommodation entries. This contention of the Revenue is also insubstantial. Plain reading of the assessment order indicates that the AO had only enhanced 20 percent of the purchases by accepting that the purchases were genuine, although not from the same parties. This is not a case of accommodation entry. However, CIT(A) proceeded further to hold that the purchases itself are bogus by alluring to the assessment orders passed in respect of the two persons from whom the purchases have been made. There is no material on record which would substantiate that the purchases reflected were accommodation entries. There is no allegation or finding that cash had been received back by the



Assessee in respect of the purchases reflected in its books of account. On this ground alone the present appeal ought to have been dismissed.

20. In view of the above, we find that no question of law arises for consideration of this Court. Accordingly, the appeal is dismissed. The pending application is also disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 07, 2025

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[Click here to check corrigendum, if any](#)