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

Date of decision: 16.12.2025

+ RFA(COMM) 350/2025 & CM APPLs. 36505-06/2025
NAYAB RAZA (PROPRIETOR OF NIZAMI GARMENT)

.....Appellant

Through: Mr.Vijay Datt Gahtori,
Ms.Vidya Bisht, Mr. Rishabh
Rai, Mr.Shivam Gautam,
Mr.Nitesh Kumar, Advs.

versus

NITISH JAIN (PROPRIETOR OF VEER FABTEX)

.....Respondent

Through: Mr.Ram Prakash Soni and
Mr.Harish Kumar, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. This appeal has been filed, challenging the Order and Decree dated 27.02.2024 passed by the learned District Judge (Commercial Court-04), Shahdara, Karkardooma Courts, Delhi (hereinafter referred to as 'Trial Court') in CS (COMM) No. 500/2023, titled *Nitish Jain (Prop. of Veer Fabtex) v. Nayab Raza (Prof. of Nizami Garments)*, partly decreeing the Suit under Order XII Rule 6 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') for a sum of Rs.2,49,905/- in favour of the respondent and against the appellant.

2. At the outset, we would note that the present appeal has been



filed with a delay of 140 days. The grounds urged for seeking condonation of delay are as under:

“2. That the appellant could not preferred the appeal within the period of limitation as the appellant was suffering from heavy financial loss as such he was under the verge of starvation which disabled the appellant to institute the appeal within period of limitation. The appellant is also illiterate and is unable to access the knowledge of law.

3. That the appellant prior to this appeal has also instituted the application under section 151 Code of Civil Procedure which was dismissed as withdrawn vide order dated 14.05.2025 passed by the Id. Suit Court after the filing of application under section 151 Code of Civil Procedure seeking recalling of the order dated 27.02.2024 passed by the Id. Trial Court.”

3. The application which forms the basis for seeking the condonation of delay, was filed under Section 151 of the CPC by the appellant on 24.09.2024 seeking recall of the Impugned Order. The same was then withdrawn by the appellant on 14.05.2025. We doubt as to how the said application even otherwise was maintainable before the learned Trial Court, the same not being one of review but under Section 151 of the CPC. It appears that the said application was not filed *bona fide* but to only gain time.

4. Even otherwise, the Impugned Order arises from a commercial dispute and therefore, even if we condone the delay on such pretentious grounds, it will defeat the object of the Commercial Courts Act, 2015.

5. We, therefore, find that the appellant has not been able to make



out any sufficient cause for the delay in filing the present appeal. Hence, the appeal is liable to be dismissed on the ground of limitation alone.

6. We have, however, also considered the merits of the appeal.

7. In the present case, the respondent had filed the above Suit claiming therein that he had supplied garments/fabric to the appellant on credit basis against invoices. The appellant had made only part payment against the same, leading to an amount of Rs.4,70,026/- remaining outstanding against the appellant. The respondent also issued a legal notice dated 18.07.2023 to the appellant and as the mediation failed, filed the above Suit for recovery of the said amount.

8. In the Written Statement filed by the appellant, the appellant's only defence was that he has paid Rs.2 lakhs in cash to the respondent which has not been accounted for by the respondent. The ledger filed by the appellant itself showed an outstanding of Rs.2,49,905/- to the respondent. Based on the said pleading, the learned Trial Court in its Impugned Order held that as there is no dispute for remaining claimed amount of Rs.2,49,905/-, the Decree for the said amount deserves to be passed under Order XII Rule 6 of the CPC.

9. The learned counsel for the appellant submits that as the respondent had intentionally concealed the fact of receiving of Rs.2 lakhs in cash, a Decree under Order XII Rule 6 of the CPC could not have been passed.

10. We do not find any merit in the said submission.

11. Whether the said amount has been paid in cash or not, is a matter of dispute which shall be adjudicated in the Suit. However, as



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long as the appellant had admitted the remaining amount as due and payable to the respondent, a part-decree has rightly been passed against the appellant and in favour of the respondent for the said amount. We, therefore, find no infirmity in the Impugned Order.

12. Accordingly, the appeal is dismissed, both on the ground of delay and also on merits.

13. CM APPL. 36506/2025 is also dismissed.

14. CM APPL. 36505/2025 is disposed of as infructuous.

15. There shall be no order as to costs.

NAVIN CHAWLA, J

MADHU JAIN, J

DECEMBER 16, 2025/Arya/ik