$~95

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

\+ RSA 124/2025

M/S PELICON PACKAGING .....Appellant

Through: Counsel (appearance not given).

versus

M/S SAJBEN PLASTFILMS PVT. LTD .....Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

O R D E R

% **22.08.2025**

CM APPL. 51885/2025 & CM APPL. 51886/2025 (exemptions)

Exemptions granted, subject to just exceptions.

The applications stand disposed-of.

CM APPL. 51887/2025 (condonation of 75 days' delay in re-filing)

By way of the present application filed under section 151 of the Code of Civil Procedure 1908 ('CPC'), the appellant seeks condonation of about 75 days' delay in *re-filing* the regular second appeal.

2. For the reasons stated in the application, which is duly supported by affidavit, the delay is condoned.

3. The application is allowed and disposed-of.

RSA 124/2025 & CM APPL. 51884/2025 (stay)

4. By way of the present regular second appeal filed under section 100 CPC, the appellant (defendant in the suit) impugns judgment dated

25.02.2025 passed by the learned District Judge, South-East District, Saket Courts, New Delhi, whereby an appeal bearing RCA DJ No. 34-23 has been dismissed by the learned first appellate court, thereby upholding judgment and decree dated 24.02.2023 passed by the learned JSCC/ASCJ/GJ, South-East district, Saket Courts, Delhi in suit bearing CS SCJ No.52840/16.

5. By judgment dated 24.02.2023, the learned trial court had decreed the suit filed by the respondent (plaintiff) for a sum of Rs.1,14,000/- alongwith interest at 8% per annum from the date of filing of the suit till the date of realization of the decretal amount.

6. The court has heard learned counsel appearing for the appellant, at some length.

7. Upon being queried as to what substantial questions of law arise in the present proceedings, learned counsel draws attention to the proposed questions of law set-out in the memo of appeal, which read as under:

> "*QUESTION OF LAW*
>
> *I. Whether respondent filed recovery suit against the appellant within the prescribed period of limitation of three years from the date of supply of goods i.e. 24-01-2014.*
>
> *II. Whether ld. appellate court given correct observation in para no.21 of the impugned judgement with regard to issuance of six cheques (Ex.PW1/3 Colly), as respondent during cross-examination dt.16-12-21 at page 4 clearly admits that "all six cheques placed on record were issued by the defendant on the date after supply of goods".*
>
> *III. Whether appellate court appreciate the legal fact of admission of respondent during cross-examination of PW1, page no.3 dated 20-08-22 in which DWI clearly admits that no goods were supplied after 24-01-2013.*

IV. Whether burden to proof of issuance of chats Ex.PW1/3 Colly was upon the respondent when appellant denied the liability to honor the cheque specifically stating in para no 4&5 of evidence by way of affidavit that said cheque had been given prior 24-01-13 and the same were without date and payment against the said cheques had been made prior 24-01-13 despite respondent just to brought the case in limitation, fill the date as 18-01-2016 and presented in the bank with a melafide (sic, mala-fidé) intention.

V. Whether appellant was liable to make payment of Rs. 1,14,000/- to the respondent without producing any invoice or purchase orders since appellant never admits that ledger account produced by respondent is correct.

VI. Whether the statement of PWI is trustworthy when he made false statement in respect of business in the name of M/S Swastik Packaging company.

VII. Whether observation given by appellant court in respect of sec 18 of limitation act and 118 of negotiable instrument act is justified."

8. The essence of the appellant's contention in the present second appeal filed under section 100 CPC, is that the suit was based on 06 cheques admittedly given by the appellant to the respondent, and it is the appellant's contention that the respondent admits that the respondent had not supplied any goods to the appellant after 2013.

9. Counsel argues, that in the course of the deposition recorded on behalf of the respondent, it has come on record that "*all six cheques placed on record were issued by the defendant on the same date <u>after</u> the supply of goods*"

10. It is submitted however that the respondent's (plaintiff's) witness has also admitted as follows :

"*It is correct that plaintiff has not supplied the goods to the defendant after 2013.*"

11. Learned counsel argues however, that all 06 cheques were presented in February 2016, which dispels the respondent's contention that the said cheques were issued in relation to *supply of goods*. Counsel argues that payment for the goods supplied last on 24.01.2013 had already been made; and the cheques in question had been given by way of security by the appellant to the respondent, which were to be returned but were misused by the respondent.

12. On a perusal of the proposed questions of law set-out in the memo of appeal, when viewed in the factual contours of the matter as narrated above, it is clear that the grievance sought to be raised in the present second appeal relates to the factual findings arrived-at by the learned trial court, which have been upheld by the learned first appellate court, based on the evidence that has come on record in the course of trial.

13. Accordingly, this court is of the view that no question of law, much-less any substantial question of law, arises in the present appeal filed under section 100 CPC.

14. The appeal is accordingly dismissed at the stage of issuance of notice itself.

15. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

AUGUST 22, 2025/ak