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ORDER SHEET
ITAT/188/2025
IA NO: GA/1/2025, GA/2/2025
IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

THE PRINCIPAL COMMISSIONER OF INCOME TAX CENTRAL 2, KOLKATA
VS
MS A P FASHION PVT LTD

BEFORE:
The Hon'ble JUSTICE RAJARSHI BHARADWAJ
AND
The Hon'ble JUSTICE UDAY KUMAR
Date: 11th March, 2026.

Appearance:
Mr. Prithu Dudhoria, Adv.
...for the appellant

Mr. Abhratosh Majumder, Sr. Adv.
Ms. Swapna Das, Adv.
Mr. Siddharth Das, Adv.
...for the respondent

The Court: Heard learned counsel appearing for either of the parties.

There is a delay of 102 days in filing the appeal. We are satisfied with the explanation offered for not preferring the appeal within time. Therefore, the delay is condoned. The application being GA/1/2025 is allowed.

Learned counsel for the appellant suggests the following substantial questions of law:

"(a) Whether in facts and in the circumstances of the case the Ld. Income Tax Appellate Tribunal was not justified in law by not considering the fact that the assessee company has made purchase transaction amounting to Rs.84,41,255/-with shell entity M/s. Afterlink Vinimay Pvt. Ltd. which has no actual business and financial creditworthiness. Thus purchase made by the assessee from shell entity M/s. Afterlink Vinimay Pvt. Ltd. is bogus in nature which was done with the intention to overstate the expenses and to suppress the actual profit ?

(b) Whether in facts and in the circumstances of the case the Ld. Income Tax Appellate Tribunal was not justified in law by not condoning the fact that during the course of search operation u/s. 132 of the Income Tax Act, 1961, conducted on 20.05.2018 in the case of Shri Kamal Kumar Jain, an entry operator, statement on oath of Shri Kamal Kumar Jain, u/s. 131 of the Income Tax Act, 1961 was recorded wherein he stated that he has provided bogus bills to AP Fashions Pvt Ltd. ?

(c) Whether in facts and in the circumstances of the case the Ld. Income Tax Appellate Tribunal was not justified in law by not considering the fact that during the course of survey operation u/s. 133A of the Income Tax Act, 1961, in the case of M/s. A.P. Fashions Pvt. Ltd., the statement of Shri Ashok Kumar Jhunjhunwala, Director of M/s. A.P. Fashions Pvt. Ltd. was recorded on oath u/s.131 of the Income Tax Act, 1961 on 30.10.2019, wherein he stated that transaction made with M/s. Afterlink Vinimay Pvt. Ltd. was bogus in nature and was done with the intention to overstate the expenses and suppress the true profit and voluntarily offered the amount to the tune of Rs. 13,30,41,731/- for tax?

(d) Whether the purchase transaction amounting to Rs.84,41,255/ made by the assessee through shell entities falls under the exceptional clause i.e. cases of accommodation entries vide Para No. 3.1(h) of CBDT's Circular No.5/2024 dated 15.03.2024?"

Heard learned counsel for the appellant and the respondent/assessee. Perused the memorandum of appeal and the application for stay. Learned Tribunal in paragraph 10 of its judgment dated 18th November, 2025 held that "After considering the rival submissions, we firstly note that the physical stock has been examined during the survey action at the premises of the assessee and secondly, the AO has also scrutinized the account of the assessee during assessment proceedings and found certain purchases for different assessment years from different parties as bogus including the purchases made by the assessee from AVPL in FY 2017-18. However, in the year under consideration the AO did not find any discrepancy etc. relating to the purchases made by the assessee from AVPL. He, therefore, did not make addition in respect of the purchases made from said concern for the year under consideration. Moreover, the Ld. AR of the assessee has also demonstrated that the assessee had made the purchases of sarees i.e. finished products from AVPL in the year under consideration and which were sold and profit earned has been offered to tax. Sales have been admitted and profit offered by the assessee has also been accepted by the department. The items purchased by the assessee for the year under consideration from AVPL were trading items and there was no question of inflation of expenditure in respect of the said purchases in the garb of raw material etc. The AO has duly examined the records and treated the aforesaid purchases as genuine. Merely because, for another year the purchases made by the assessee from the said concern AVPL have been treated by the AO as bogus, that in itself, in our view, cannot be made the sole basis to treat the purchases made by the assessee from the said concern for the year under consideration as bogus. Therefore, the revision order passed by the Ld. Pr. CIT is not sustainable and the same is accordingly, quashed. However, it is made clear that our observation made in this order will not have any bearing relating to the validity of the purchase/additions made by the AO in respect of the purchases made from other parties or from the same party in an another assessment year. The validity of the same will be examined in the respective assessment/appellate proceedings and the finding, given herein, will not have any bearing upon the same. With the above observation, the appeal of the assessee is treated as allowed.

In the result, the appeal of the assessee stands allowed."

From the above facts, it is clear that no substantial question of law arises from this judgment and the appeal and the connected application being GA/2/2025 are dismissed.

(RAJARSHI BHARADWAJ, J.)

(UDAY KUMAR, J.)

Sp/