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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ ITA 281/2024 & CM APPLs. 28758/2024 (Stay)

PUSHPA SALUJA Appellant

Through: Mr. Kanishk Rana, Adv.

versus

ITO WARD 45(4) NEW DELHI Respondent

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

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR

KAURAV

ORDER

% **14.05.2024**

CM APPL. 28759/2024 (Exemption)

Allowed, subject to all just exceptions.

Application is disposed of.

CM APPL. 28760/2024 (76 Days Delay in Refiling)

1. Bearing in the mind the disclosures made, the delay of 76 days in re-filing the appeal is condoned.

2. Application shall stand disposed of.

ITA 281/2024, CM APPL. 28758/2024 (Stay)

3. Notice. Since the respondent is represented by Mr. Rai, no further steps need be taken.

4. Having heard learned counsel appearing for the appellant, we take note of the principal ground on which the order of the Income Tax Appellate Tribunal ['ITAT'] is assailed. Learned counsel



submitted that the provisions of Section 68 of the Income Tax Act, 1961 [‘Act’] would clearly be inapplicable, bearing in mind the undisputed fact that the additions were made in respect of alleged bogus purchases. The provision in question, it was submitted, can only apply to unexplained credit entries.

5. We, consequently, admit the appeal on the following questions of law:-

A. Whether the ITAT erred in upholding the wrongful application of Section 68 of the Act on alleged bogus purchases?

B. Whether the ITAT erred in upholding addition of entire amount of the alleged bogus purchases to the income of the appellant instead of only gross profit margin embedded in the purchases?

6. List again on 03.09.2024.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

MAY 14, 2024/RW