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

+ ITA 394/2024

THE PR. COMMISSIONER OF INCOME  
TAX -7

.....Appellant

Through: Mr.Ruchir Bhatia, SSC with  
Mr.Anant Mann, JSC and  
Mr.Pratyaksh Gupta, JSC

versus

TECHNICO INDUSTRIES PVT. LTD.

.....Respondent

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE YASHWANT VARMA**

**HON'BLE MS. JUSTICE TARA VITASTA GANJU**

**ORDER**

**29.07.2024**

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**CM APPL. 42282/2024 (847 Days Delay in Refiling)**

Bearing in mind the disclosures made, the delay of 847 days in refiling the appeal is condoned.

The application shall stand disposed of.

**ITA 394/2024**

1. Notice. Although the respondent is stated to have been placed on advance notice, none has appeared on its behalf when the matter was called. Consequently, let the appellant take steps for service upon the respondent through all permissible modes including via approved courier service.

2. Prima facie, and on going through the submissions addressed, we note that insofar as the various additions under Section 68 of the



Income Tax Act, 1961 [‘Act’] are concerned, the primary issue which would arise would be with respect to ARG Udyog Pvt. Ltd. and ARG Autosystems Ltd. Insofar as the other additions are concerned, they are clearly concluded by findings of fact.

3. The tabulated statement with respect to share capital investment which was made, stands set out in the order of the Tribunal and is reproduced hereinbelow:-

Share capital/premium:

| S No. | Name & Address of the Party | Amount (in Rs.) |
|-------|-----------------------------|-----------------|
| (a)   | Arun Gupta                  | 1,00,00,000     |
| (b)   | ARG Udyog Pvt Ltd           | 4,50,00,000     |
| (c)   | Shiroki Corporation         | 9,20,00,000     |
| (d)   | ARG Auto Components Pvt Ltd | 1,20,00,000     |
| (e)   | ARG Autosystem Limited      | 2,50,00,000     |
|       | Total                       | 18,40,00,000    |

Unsecured Loans

| S No. | Name & Address of the Party | Amount (in Rs.) |
|-------|-----------------------------|-----------------|
| (a)   | Sh. Arun Gupta              | 6,75,75,579     |
| (b)   | ARG Auto Components Pvt Ltd | 4,36,63,403     |
| (c)   | ARG Udyog Pvt Ltd           | 4,33,15,223     |
| (d)   | ARG Autosystem Limited      | 35,85,513       |
|       | Total                       | 15,81,39,718    |

4. Insofar as ARG Udyog Pvt. Ltd. is concerned, the Tribunal has recorded as under:-

“35. Now, coming to the addition of Rs.450 lakhs on account of share capital and share premium and unsecured loan of Rs.4,33,15,223/- in respect of ARG Udyog Pvt. Ltd. is concerned, it is the submission of the Id. Counsel for the assessee that a sum of Rs.30 lakhs represents cheques cancelled in respect of which no funds were received and a sum of Rs.450 lakhs was transferred by the means of journal entry to share application money account which has been added both under the head 'unsecured loans' as well as 'share application money' and the cumulative effect of the above is an excess addition of Rs.4,33,15,223/-. A perusal of the assessment order shows that the assessee has not filed the bank statement of M/s ARG Udyog Pvt. Ltd. before the AO although the same was filed before the CIT(A) as an additional evidence. However, a request was made to the Id. CIT(A) for admission of additional evidence in



respect of ARG Udyog Pvt. Ltd. The written submissions filed by the Id. Counsel as a rejoinder to the submissions filed by the Id. DR show that the assessee has, in fact, made an application for admission of additional evidence under Rule 46A of the Income Tax Rules, 1962 in respect of ARG Udyog Pvt. Ltd. Therefore, the submission of the DP that no such application was made is incorrect.

**36.** In our opinion, the Id.CIT(A), after considering the various evidences filed before him and after considering the remand report of the AO, has deleted the addition which, in our opinion, is justified under the facts and circumstances of the case.”

5. Prima facie, we find that the Tribunal has clearly failed to accord any reasoning in support of the ultimate deletions.

6. Insofar as ARG Autosystems Ltd. is concerned, on facts the Tribunal had found as follows:-

“**33.** So far as ARG Autosystems Ltd. Is concerned, we find, the AO made addition of Rs. 250 lakhs being share capital and security premium and unsecured loan of Rs. 35, 85,513/- on the ground that assessee failed to explain the source of the same from the above party in terms of section 68 of the IT Act, 1961. It was demonstrated by the assessee that a sum of Rs.250 lakhs was transferred by means of journal entry to the share application money amount whereby a sum of Rs.35,85,513/- has been added both under the head 'unsecured loans' as well as 'share application money' resulting in double addition of the like amount. The assessee before the AO has also filed the bank statement, income-tax return, copy of balance sheet, etc., vide its reply dated 11.12.201 5, 24.01.2014 and 14<sup>th</sup> March, 2014. The assessee has demonstrated that the loan account of M/S ARG Autosystems Ltd. had an opening credit balance of Rs.2,51,14,095/-. Similarly, the total credit in the loan account were Rs.35,85,513/- and the entire amount was added by the AO as unexplained credit u/s 68 of the IT Act. Since the amount of Rs. 250 lakhs was transferred from the loan account of M/s ARG Autosystems Ltd., by debiting the loan account and crediting the share application money, therefore, there is no requirement of addition u/s 68 of the Act. We find, the Id.CIT(A), after considering the totality of the facts of the case, deleted the addition, which, in our opinion, is just and proper under the facts and circumstances of the case. Accordingly, the order of the CIT(A) deleting the addition on account of share capital and unsecured loan in respect of ARG Autosystem Ltd. is upheld.”

7. This too, in our considered opinion, would merit further consideration.



8. We accordingly admit the appeal on the following question of law:-

A. Whether the Tribunal has erred in deleting the addition in respect of the share investment money received from ARG Udyog Pvt. Ltd and ARG Autosystems Ltd?

9. Let the appeal be called again on 13.11.2024.

**YASHWANT VARMA, J.**

**TARA VITASTA GANJU, J.**

**JULY 29, 2024/RW**