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

*Date of Decision: 15<sup>th</sup> May, 2025*

+ **RFA(COMM) 295/2025**

M/S DOLLAR INDUSTRIES LTD. ....Appellant

Through: Mr. Puneet Singh Bindra, Advocates.

versus

VARISH AGGARWAL .....Respondent

Through: Mr. Ankit Jain, Sr. Advocate with Mr. Shantnu Aggarwal & Mr. Rohit, Advocates.

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**JUSTICE RAJNEESH KUMAR GUPTA**

**Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.

**CM APPL. 29704/2025 (for exemption)**

2. Allowed, subject to all just exceptions. Application is disposed of.

**CM APPLs. 29703/2025(Condonation of delay)**

3. This is an application under Section 151 of CPC for condonation of delay in filing the appeal.

4. For the reasons stated in the application, delay of 19 days in re-filing the appeal is condoned.

5. Application is disposed of.

**RFA(COMM) 295/2025**

6. The present appeal has been filed by the Appellant under Section 13(1-A) of Commercial Courts Act, 2015 read with Order XLIII Rule 1A



(Summary judgement) read with Section 96 of Code Of Civil Procedure, 1908 challenging the impugned judgment/decreed sheet dated 15th February, 2025 passed by the Ld. District Judge (Commercial Court)-05 Tis Hazari Courts, West Delhi in the following terms:

*“26. Plaintiff has sought decree for recovery of Rs.3,51,873/- alongwith 18% p-a. interest which according to plaintiff, he is entitled from the defendant after the credit notes of Rs.11,51,252/- is issued by the defendant against receipt of unsold goods. The issue regarding the entitlement of the plaintiff to the aforesaid amount or any other amount on account of return of unsold goods can only be effectively adjudicated, after the goods are lifted by the defendant and the credit notes are issued. Application filed by the plaintiff stands disposed off accordingly. Decree sheet be prepared accordingly. It is made clear that nothing stated herein above shall tantamount to an expression on the merits of the present case as far as the remaining subject matter (issues) of the present suit is concerned.”*

7. The dispute arose between the Appellant and the Respondent over a distribution agreement dated 25<sup>th</sup> April, 2018 (hereinafter “The Agreement”). The Appellant manufactures apparel under the mark ‘\$’ (Dollar) and appointed the Respondent as a distributor. According to the Respondent who is the Plaintiff, certain stock was received in October, 2023 in terms of the said agreement. However, the Respondent’s case is that by then the Agreement stood terminated by the Appellant. Hence the prayer in the suit was as under:

“

**PRAYER**

*In the facts and circumstances of the present case, it is most respectfully prayed that this Hon’ble Court may kindly be pleased to:*

*a) Pass a decree for recovery of Rs.3,51,873/- (Rupees Three Lacs*



*Fifty One Thousand Eight' Hundred and Two Only) towards recovery of principal amount alongwith interest @18% per annum against the Defendant and in favour of the Plaintiff;*

*b) Pass a decree of mandatory injunction against the Defendant Company thereby directing it to remove the unsold stocks worth Rs,11,51,292/- (Rupees Eléven Lacs Fifty One Thousand Two Hundred Ninety Two Only) as per the debit notes and list of unpacked goods placed on record;*

*c) Pass a decree of mandatory injunction against the Defendant Company thereby directing it to issue the credit notes to the sum of Rs.11,51,292/- (Rupees Eleven Lacs Fifty One Thousand Two Hundred Ninety Two Only) towards the unsold goods:*

*d) Pass a decree for recovery of Rs.2,29,000/- (Rupees Two Lacs Twenty Nine Thousand Only) towards rent paid by the Plaintiff w.e.f. October, 2023 to June, 2024 and for further period till the removal of unsold goods from the godowns of the Plaintiff:*

*e) Pass a decree for recovery of 'Rs.11,930/- (Rupees Eleven Thousand Nine Hundred Thirty Only) towards electricity charges paid by the Plaintiff w.e.f. October, 2023 to June. 2024 and for further period till the removal of unsold goods from the godowns of the Plaintiff;*

*f) Pass a decree of permanent injunction against the defendant thereby restraining it from presenting the second blank security cheque bearing no. 000169, Bank of Baorda, Vishwas Nagar, Delhi handed over by the Plaintiff at the time of his appointment as Distributor;*

*g) Pass a decree of mandatory injunction against the Defendant Company thereby directing it to return the second blank security cheque bearing no. 000169, Bank of Baorda, Vishwas Nagar, Delhi handed over by the Plaintiff at the time of his appointment as Distributor;*

*h) Pass a decree of damages to the tune of Rs.5,00,000/- (Rupees Five Lacs Only) in favour of the Plaintiff and against the Defendant;”*

8. Both the parties are disputing the question as to who terminated the Agreement and whether in fact it was properly terminated as per



the Agreement or not. This is an issue which would have to be adjudicated by the Trial court. In the meantime, however, the stock of goods lying with the Respondent is the subject matter of this appeal. The Commercial Court has directed the Appellant to take back the stock of goods which the Appellant does not wish to take back. Hence this Appeal.

9. The case of the Appellant is that it never terminated the agreement with the Respondent. There are also certain monetary disputes relating to few cheques which have been encashed by the Appellant however that is not subject matter of this appeal.

10. The only question is therefore whether the Appellant ought to be directed to take back the goods and issue credit notes in terms of the impugned which has been passed or should the Respondent/Plaintiff be permitted to dispose of the goods.

11. Learned Counsel for the Appellant submits that the Appellant does not wish to take back the goods and intends to contest the suit on merits. On behalf of the Respondent/Plaintiff, it is submitted that in the event the Appellant declines to take back the goods, the Respondent ought to be permitted to dispose of the same, without the Appellant raising any dispute at a later stage regarding the value at which the goods are disposed of.

12. The Court has heard the parties. The suit is still pending for trial before the Commercial Court. The only question is in respect of the stock which was supplied prior to October, 2023 and hence lying with the Respondent – Plaintiff. The Court has considered the following facts:



- (i) the subject matter goods are apparel whose condition may get deteriorated over the years while the suit is pending adjudication;
  - (ii) The Appellant upon being given the choice of taking the stock has clearly refused to do so on the ground that it has already appointed different distributors with separate contractual terms and the same cannot be interfered with;
  - (iii) Further the Appellant also does not want to issue any credit note in respect of the said stock.
13. In view of the above facts, the Court is inclined to dispose of the appeal in the following terms:
- (a) The Respondent-Plaintiff is free to accordingly dispose of the stock;
  - (b) The Respondent-Plaintiff is directed to maintain proper accounts and file the same within two months after disposal of the stock. The accounts file shall be filed with an affidavit of the Director of the Respondent firm;
  - (c) The entire stock shall be disposed of by 31<sup>st</sup> July, 2025. The accounts filed by 30<sup>th</sup> September, 2025;
  - (d) In so far as the sale value of the goods is concerned, if the Appellant disputes the same, the same shall be adjudicated at the final stage of the suit.
14. Whatever claims and counter claims may be there between the parties shall be adjudicated by the Commercial Court in accordance with law after evidence is led.
15. All contentions of parties are left open.



2025:DHC:3998-DB



16. The parties inform the Court that the issues have already been framed in this matter. The suit shall proceed accordingly.

17. The appeal is disposed of in the above terms. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH  
JUDGE**

**RAJNEESH KUMAR GUPTA  
JUDGE**

**MAY 15, 2025/da/Ar.**