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

% *Date of decision: 3<sup>rd</sup> February, 2026.*

+ ITA 90/2026 & CM APPL. 7272/2026

THE PR. COMMISSIONER OF INCOME  
TAX -CENTRAL -1

.....Appellant

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

versus

SPERRY PLAST LTD.

.....Respondent

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE DINESH MEHTA**

**HON'BLE MR. JUSTICE VINOD KUMAR**

### **J U D G M E N T**

**DINESH MEHTA, J. (Oral)**

1. The instant appeal under Section 260A of the Income Tax Act 1961 (*hereinafter referred to as 'Act of 1961'*) impugns the order dated 04.06.2025 passed by the Income Tax Appellate Tribunal, Delhi Bench 'G' New Delhi (*hereinafter referred to as 'the Tribunal'*), whereby the appeal filed by the respondent-assessee was allowed.

2. While allowing the appeal, the Tribunal recorded the following findings:-

*"9. During the Remand Proceedings, the A.O. made independent enquiries from the above two parties by issuing notice to them. The notice issued by the A.O. has been duly served and both the parties have replied. In so far as Bhargabi Vinimav Pvt. Ltd., the reason assigned for the addition is that the reserve and surplus of the loan creditor was low and the*



loan creditor company had shown meager income. It is well settled law that the loan creditor creditworthiness is not only restricted to the current year income u/s 68 of the Act. What is relevant is the source and such source is not confined to current year income only. The source could be out of many factors such as money paid within its net-worth out of loan raised by them or out of income earned by them. As per the balance sheet of Bhargabi Vinimav Pvt. Ltd. they had availability of total source of fund of Rs. 26,36,29,338/- as on 31/03/2016 and Rs. 23,05,32,310/- as on 31/03/2017 respectively.

10. It is relevant to mention that the Assessee had taken total loan of Ro. two crore on 24/05/2016, out of which, Ra. 1,85,00,000/- was paid back within two days and remaining amount of Rs. 15,00,000/- was paid back within a month.

11. In so far as Pioneer Dealtrade Pvt. Ltd. is concerned, the Assessee had furnished confirmation, ITR Acknowledgment, Audited Financial Statement and bank statement of the loan creditor. At no point of time, A.O. doubted identity of the creditor and the creditworthiness of the creditor. The A.O. has only doubted the genuineness of the transaction. At the cost of repetition, it is observed that the notice issued by the Assessing Officer has been served and duly responded by the creditor by confirming the transaction with the Assessee Company submitted the document i.e. confirmation, ITR balance sheet and bank statement. Thus, there was no reason for the authorities below for doubting the genuineness of the transaction. As per the balance sheet of the Pioneer Dealtrade Pvt. Ltd. they had availability of total net worth of Rs. 57,96,69,322/- as on 31/03/2016 and Rs. 57,92,14,703/- as on 31/03/2017.

12. In the present case, the identity of the loan creditor are established. The creditors are existing income tax Assessee's and also having bank accounts. Therefore, there cannot be any chance to doubt their identity. Since, the transactions have been taken place by account payee cheque, the genuineness of the transaction is also established beyond doubt and the loan has been paid back through banking channel apart from proving the credit worthiness of the loan creditor. Considering the above facts and circumstances, we find no reason to sustain the addition, accordingly addition sustained by the Ld. CIT(A) is hereby deleted. Finding merits in Grounds of the Assessee, the same are allowed."



3. Mr. Bhatia, learned Senior Standing Counsel appearing for the appellant-Department argued that the Tribunal has not appreciated the facts in their true nature and has failed to consider the crucial aspect that merely within two days, the loan which the respondent-assessee had taken was repaid.

4. He further submitted that so far as the second loan which had been taken from Pioneer Dealtrade Pvt. Ltd. is concerned, in face of clear report given by the investigation Wing Kolkata, there could not be any *iota* of doubt that the same was only a paper transaction and that the creditor was an entry provider.

5. Having heard learned counsel for the appellant and upon perusal of the record, we are of the view that the issue which is sought to be canvassed before us is essentially a finding of fact and appreciation of evidence and material which the Tribunal has taken into account.

6. While observing that simply because the loan has been paid within two days, it cannot be said with certitude that the loan was not a genuine loan and was only a paper entry. According to us, the other argument that no interest was paid to the creditor is also mis-placed because if the short-term loan for two-three days is taken, for whatever reason because of family or business relation or friendship, a creditor may advance the amount with lesser or even without interest.

7. As a matter of fact the enquiry which ought to have been contended by the respondent-assessee is lacking in the case, which in instant case could have been – whether the creditor has license under the Bengal Money Lender's Act, 1940 or not, and/or what is the relationship (friendly or



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business/blood relationship) due to which a creditor situate in Kolkata had advanced such a huge amount of loan to the respondent-assessee situate in Delhi.

8. In absence of requisite enquiry or exercise which should have been undertaken, we do not find it to be a case warranting interference. The appeal is, therefore dismissed.

9. Pending application also stands disposed of.

**DINESH MEHTA  
(JUDGE)**

**VINOD KUMAR  
(JUDGE)**

**FEBRUARY 3, 2026/MR**