



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

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Judgment Reserved on: 18th February, 2026
Judgment pronounced on: 25th February, 2026

+ CS(COMM) 69/2023 with I.A. 39590/2024 and I.A. 30226/2025

M/S AJUNI ENTERPRISES PVT. LTD. THROUGH ITS
DIRECTOR SH. KULJEET SINGHPlaintiff

Through: Mr. D.K. Rustagi, Mr. Mayank
Rustagi and Ms. Anjali Pandey,
Advocates.

versus

MR. ARSH MOHAMMAD & ORS.Defendants

Through: Mr. Abhishek Gupta, Advocate for
D-1.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

JUDGMENT

AMIT BANSAL, J.

I.A. 30226/2025 (seeking condonation of delay in filing the written synopsis as directed vide order dated 20.08.2025)

1. The present application has been filed on behalf of the defendant no.1 seeking condonation of delay of 75 days in filing written synopsis.
2. For the reasons stated in the application, the delay of 75 days in filing the written synopsis on behalf of the defendant no.1 is condoned.
3. The application stands disposed of.

I.A. 39590/2024 (under Order XIII-A of the Code of Civil Procedure, 1908)

4. The present suit has been filed on behalf of the plaintiff seeking recovery of Rs. 4,23,34,250/- along with interest @ 18% and costs.



5. The captioned application has been filed on behalf of the plaintiff under Order XIII-A of the Code of Civil Procedure, 1908 (hereinafter '*CPC*'), as applicable to commercial disputes, seeking a summary judgment against the defendant no.1.

CASE SETUP IN THE PLAINT

6. Brief facts stated in the plaint which are relevant for adjudication of the captioned application are set out below:

6.1. The plaintiff is a company primarily engaged in the trade of electronic goods such as mobile phones and its parts and accessories.

6.2. The defendants no.2 and 3 are involved in the business of seeking short-term financial investment. The plaintiff had a successful business relationship with them in the past.

6.3. The defendant no.1 is the proprietor of M/s AT Gold Enterprises, who is closely associated with the defendants no.2 and 3.

6.4. The defendants no.2 and 3 sought a short-term financial investment of Rs. 3 crores from the plaintiff for procuring OLED screen panels of OPPO mobile phones and assured fixed returns of approximately 35 lakhs within 30 days in exchange of the said financing.

6.5. Lured by the offer of high returns within a short period of time, the plaintiff accepted the offer made by the defendants no.2 and 3 and transferred a sum of Rs. 3 crores on 19th February 2022 through RTGS to the bank account details provided by the defendant no.2. The said bank account was that of the defendant no.1.

6.6. The defendants no.2 and 3 assured the plaintiff of having acquired the requisite stock between 14th March 2022 and 31st March 2022 against the



aforesaid amount transferred to the bank account of the defendant no.1 by the plaintiff. In support of the same, the defendants no.2 and 3 also shared six invoices raised by the defendant no.1 in the name of the plaintiff.

6.7. After the last invoice raised in the name of the plaintiff on 31st March 2022, the plaintiff was assured of the return of the aforesaid investment along with profits by the middle of April 2022.

6.8. In terms of the arrangement between the parties, the aforesaid stock was to be sold and the plaintiff was to be returned the investment amount of Rs.3 crores along with profits.

6.9. When the plaintiff visited the residence-cum-office of the defendants no.2 and 3 in April 2022, the premises were found to be locked. The defendants no.1 and 3 also avoided the calls of the authorized representative of the plaintiff.

7. Since the defendants failed to refund the amount of Rs. 3 crores as also the minimum profit that was assured to the plaintiff, the present suit has been instituted seeking recovery.

PROCEEDINGS IN THE SUIT

8. Summons in the suit were issued to the defendants on 8th February 2023.

9. Counsel for the defendant no.1 entered appearance on 12th May 2023.

10. On 21st September 2023, the defendants no.2 and 3 were directed to be served with summons through substituted service. Accordingly, the defendants no.2 and 3 were served through newspaper publication.



11. The right of the defendants no.2 and 3 to file the written statement and reply to the captioned application was closed *vide* order dated 4th February 2025 and they were proceeded against *ex-parte* on 28th November 2025.

CASE SETUP IN THE WRITTEN STATEMENT FILED ON BEHALF OF THE DEFENDANT NO.1

12. The defendant no.1 filed a written statement on 11th April 2023 and has made the following averments:

12.1. The defendant no.1 was approached by the defendant no.2 to purchase mobile screens who, on 19th February 2022, made an advance payment of Rs. 3 crores from the bank account of the plaintiff.

12.2. The defendant no.1 supplied the said goods to the plaintiff through the defendant no.2 *vide* six invoices totalling Rs. 2,72,40,392/-. The details of the said invoices are set out below:

S. No.	Invoice No.	Bill Date	Amount
1.	ATGE/183/2021-22	14.03.2022	Rs. 49,99,273/-
2.	ATGE/184/2021-22	14.03.2022	Rs. 49,99,896/-
3.	ATGE/185/2021-22	14.03.2022	Rs. 49,98,650/-
4.	ATGE/186/2021-22	18.03.2022	Rs. 49,99,483/-
5.	ATGE/187/2021-22	18.03.2022	Rs. 20,04,834/-
6.	ATGE/206/2021-22	31.03.2022	Rs. 52,38,256/-

12.3. The receipt of the said goods by the plaintiff is evident from the fact that the plaintiff has taken input tax credit of GST amounts in the aforesaid invoices.

12.4. The defendant no.1 has paid a sum of Rs. 25 lakhs to the defendant no.2 on the pretext that the same would be adjusted from the amount due to



the plaintiff. Thus, the defendant no.1 has absolved his liability towards the plaintiff.

SUBMISSIONS ON BEHALF OF THE PLAINTIFF

13. Mr. D. K. Rustagi, counsel appearing on behalf of the plaintiff, has made the following submissions:

13.1. The defendant no.1, in his written statement, has admitted that a sum of Rs. 3 crores was transferred by the plaintiff in his bank account.

13.2. The defendant no.1 admittedly raised the aforesaid six invoices, filed the GST return and issued e-way bills in the name of the plaintiff. However, no delivery has been made to the plaintiff pursuant to the said invoices and e-way bills.

13.3. Mere issuance of invoices and e-way bills do not prove factum of delivery as the defendant no.1 has neither placed on record the transporter receipt nor the *challan* confirming actual delivery of goods under the invoices/ e-way bills.

13.4. The e-way bills issued on behalf of the defendant no.1 are also defective in as much as they do not show the complete address of the consignee.

13.5. The defendant no.1 has stated in his written statement that he has delivered the goods under the six invoices to the plaintiff through the defendant no.2. However, nothing has been placed on record to show the delivery of the said goods to the defendant no.2. The aforesaid stand of the defendant no.1 is also untenable as in that event, the tax invoices and e-way bills would have been raised in the name of the defendant no.2.



13.6. The payment of Rs. 25 lakhs by the defendant no.1 to the defendant no.2 shows the collusion between them.

13.7. The defendant no.1 has falsely created the defence of delivery of goods to the plaintiff to avoid payment of investment or assured profit.

13.8. The input tax credit was erroneously taken by the plaintiff under a misunderstanding. When the plaintiff got to know that the goods against the tax invoices were not received from the defendant no.1, it immediately reversed the input tax credit of Rs. 41,55,314.04/- under Rules 42 and 43 of the Central Goods and Services Tax Rules, 2017 and the defendant no.1 is aware of the said fact.

13.9. The defendant no.1 has no real prospect of defending the claim of the plaintiff in light of clear admission of receipt of payment of Rs. 3 crores from the plaintiff.

SUBMISSIONS ON BEHALF OF THE DEFENDANT NO.1

14. Mr. Abhishek Gupta, counsel appearing on behalf of the defendant no.1, has made the following submissions:

14.1. The plaintiff itself in the plaint has stated that the defendant no.1 was a stranger to the plaintiff and the plaintiff had an existing business relationship with the defendants no.2 and 3. Thus, there is no privity of contract between the plaintiff and the defendant no.1 and no cause of action arises in favour of the plaintiff *qua* the defendant no.1.

14.2. The invoices as well as the e-way bills filed by the plaintiff are proof of delivery of goods to the plaintiff. Further, the plaintiff has also taken input tax credit on the basis of the said invoices.



14.3. Under the Central Goods and Services Tax Act, 2017 (hereinafter '*CGST Act*'), availing the input tax credit by the plaintiff itself amounts to admission of delivery of goods as tax credit can be taken only upon receipt of goods. Reliance in this regard is placed on Section 16 of the CGST Act.

14.4. The plaintiff admits that it was the defendants no.2 and 3 who had to sell the stocks and then return the amount of Rs. 3 crores with assured returns to the plaintiff. Accordingly, it is admitted that the stocks were acquired by the plaintiff through the defendants no.2 and 3.

14.5. The details of the stock supplied by the defendant no.1 to the plaintiff is duly mentioned in the invoices raised by him.

ANALYSIS AND FINDINGS

15. I have heard counsel for the parties and perused the material on record.

16. The present application seeking summary judgment has been moved premised on the fact that the defendant no.1 has duly admitted receiving the payment of Rs. 3 crores on 19th February 2022 from the plaintiff.

17. At the outset, it may be relevant to outline the scope of Order XIII-A of the CPC.

18. In *Su-Kam Power Systems Ltd. v. Kunwer Sachdev*¹, a coordinate bench of this Court held that in view of Order XIII-A of the CPC as applicable to commercial disputes, a full trial is no longer the default procedure and a summary adjudication may be undertaken where the defendant lacks any realistic prospect of defending the claim and where no compelling reason subsists for proceeding to trial. It was further held that the

¹ 2019 SCC OnLine Del 10764.



standards of ‘no genuine issue requiring a trial’ and ‘no compelling reason for trial’ operate *mutatis mutandis*, thereby enabling the Court to decide even disputed questions of fact at the summary stage, provided it can arrive at the requisite findings of fact, apply the law thereto and conclude that such course is a proportionate, expeditious and just method of disposal. Relevant extracts from the aforesaid judgment are set out below:

“49. Consequently, this Court is of the view that when a summary judgment application allows the Court to find the necessary facts and resolve the dispute, proceeding to trial would generally not be proportionate, timely or cost effective. It bears reiteration that the standard for fairness is not whether the procedure is as exhaustive as a trial, but whether it gives the Court the confidence that it can find the necessary facts and apply the relevant legal principles so as to resolve the dispute as held in Robert Hryniak (supra).

50. In fact, the legislative intent behind introducing summary judgment under Order XIII A of CPC is to provide a remedy independent, separate and distinct from judgment on admissions and summary judgment under Order XXXVII of CPC.

52. Consequently, this Court is of the opinion that there will be „no real prospect of successfully defending the claim” when the Court is able to reach a fair and just determination on the merits of the application for summary judgment. This will be the case when the process allows the court to make the necessary finding of fact, apply the law to the facts, and the same is a proportionate, more expeditious and less expensive means to achieve a fair and just result.”

19. It is an admitted position that the sum of Rs. 3 crores was duly transmitted by the plaintiff in the bank account of the defendant no.1 through RTGS.

20. It is the case of the defendant no.1 in his written statement that against the aforesaid amount, goods worth Rs. Rs. 2,72,40,392/- were supplied to the plaintiff through the defendant no.2. However, the defendant no.1 has



failed to produce any documents towards delivery of goods to either the defendant no.2 or the plaintiff.

21. The only documents on record are six tax invoices raised by the defendant no.1 in the name of the plaintiff along with six corresponding e-way bills.

22. In my considered view, the said e-way bills do not reflect that the goods were supplied by the defendant no.1 to the plaintiff. Pertinently, the e-way bills placed on record do not even carry the complete address of the plaintiff.

23. If the goods had been delivered to the plaintiff, the defendant no.1 ought to have placed on record the transporter's receipt or *challan* confirming the actual delivery of the goods. The defendant no.1 has also not placed on record invoices of the transporter to prove delivery of the goods to the plaintiff or the defendant no.2.

24. Next, it is contended on behalf of the defendant no.1 that the fact that the plaintiff has taken input tax credit in respect of the said goods shows that the actual delivery was made upon the plaintiff. In this regard, reliance is placed on Section 16(2)(b) of the CGST Act, which is set out below:

“16. Eligibility and conditions for taking input tax credit. –

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,--

(b) he has received the goods or services or both.

[Explanation—For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services –

(i) When the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether



acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;...]”

[emphasis supplied]

25. In terms of Section 16(2)(b) of the CGST Act, the input tax credit could be taken by a person only upon receipt of goods.

26. It is submitted on behalf of the plaintiff that the input tax credit was wrongfully taken by the plaintiff since the plaintiff had not received the goods. Accordingly, the same was reversed.

27. To be noted, it is not disputed that the plaintiff has reversed the input tax credit.

28. Since the plaintiff reversed the input tax credit, its availment in the first instance cannot serve as a proof of delivery of goods to the plaintiff, particularly, in the absence of any concrete proof of delivery of goods such as acknowledgement of such delivery by the plaintiff/ defendant no.2 or the transporter’s receipt or *challan*.

29. It is also relevant to note that the defendant no.1 has taken contradictory stands with respect to supply of goods. While it has been stated in the written statement that the goods were supplied to the defendant no.2 on behalf of the plaintiff, the tax invoices and e-way bills reflect the name of the plaintiff.

30. In light of the discussion above and the principles laid down in ***Su-Kam Power*** (supra), in the opinion of this Court, the defendant no.1 has no real prospect of successfully defending the claims. Accordingly, there is no requirement of leading oral evidence in the case. Therefore, no purpose would be served by directing the parties to lead oral evidence and it is a fit



case where a summary judgment in terms of Order XIII-A of the CPC can be passed in favour of the plaintiff and against the defendant no.1.

31. Accordingly, the application is allowed and the suit is decreed *qua* the defendant no.1 in favour of the plaintiff for the sum of Rs. 3 crores. Being a commercial transaction, the plaintiff shall also be entitled to interest at the rate of 9% per annum from the date of filing of the present suit till actual realization.

32. Let the decree sheet be drawn up accordingly.

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33. List before the Roster Bench on 30th March 2026.

**AMIT BANSAL
(JUDGE)**

FEBRUARY 25, 2026

Rzu/-