IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.08.2026
DELIVERED ON : 28.08.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

T.C.A.Nos.714 and 721 of 2018; 8 and 9 of 2023; W.P.Nos.16403, 18460, 18461, 18501, 18502, 18503 of 2017; 32631, 32634, 32636 and 32640 of 2018 and
W.M.P.Nos.20031, 17736, 20032, 20072, 20073, 20074, 35401 of 2017, 37839, 37842, 37845, and 37851 of 2018

TCA No. 714 of 2018:

The Commissioner of Income Tax
Chennai.

Petitioner(s)

Vs

Sohanraj Uttamchand
24/12, Raghaviah Road,
T.Nagar, Chennai - 600 017.

Respondent(s)

PRAYER in T.C.A.No.714 of 2018: Appeal filed under Section 260A of the Income-tax Act against the order passed by the Income Tax Appellate Tribunal, Madras 'C' Bench, Chennai dated 28.2.2018 in I.T.A.No.1787/Mds/2017.

and batch cases

For Appellant(s) in all TCAs :	Mr.T.Ravi Kumar Senior Standing Counsel
For Respondent(s) in all TCAs and petitioners in all WPs:	Mr.Srinath Sridevan, Senior Counsel for Mr.Bhagawath Krishnan
For Respondents in all WPs:	Mr.B.Ramanakumar Senior Standing Counsel and Mr.Avinash Krishnan Ravi Junior Standing Counsel

COMMON JUDGMENT

THE CHIEF JUSTICE

Since all these Tax Case Appeals filed by the Revenue and the writ petitions filed by the assessees arise out of a common and inter-connected set of facts, they were heard together and are disposed of by this common judgment.

2. As the disposal of T.C.A.Nos.714 and 721 of 2018 will have a bearing on the outcome of the other cases, they are taken up as lead cases for disposal of this batch.

3.1. T.C.A.No.714 of 2018 has been filed by the Revenue against the order dated 28.02.2018 passed by the Income Tax Appellate

Tribunal, Madras "C" Bench [for brevity, "*the Tribunal*"] in I.T.A.No.1787/Chny/2017, whereby the Tribunal allowed the appeal of the assessee, Sohanraj Uttamchand, and directed deletion of the addition of Rs.32,90,96,125/- made by the Assessing Officer under Section 68 of the Income-tax Act, 1961 [for brevity, "*the Act*"], and further directed that the gain arising from the sale of shares of PFL Infotech Limited be treated as Long Term Capital Gain exempt under Section 10(38) of the Act.

3.2. T.C.A.No.721 of 2018 has been filed by the Revenue against the connected order dated 14.03.2018 passed by the very same Bench of the Tribunal in I.T.A. No.1786/Chny/2017, whereby the Tribunal allowed the appeal of Sohanraj Praveen Kumar, the brother of the assessee in the first appeal, and similarly directed deletion of the addition of Rs.38,05,28,491/- made under Section 68 of the Act, holding the gain on sale of shares of Risa International Limited to be exempt Long Term Capital Gain under Section 10(38) of the Act.

4. Both appeals were admitted on identical substantial questions of law, which read as under:

"1. Whether the Tribunal was right in deleting the addition of Rs.32,90,96,125/- [in T.C.A.No.714 of 2018] and Rs.38,05,28,491/- [in T.C.A.No.721 of 2018] made under Section 68 of the Act, especially when there is no evidence on record to support the stand of the assessee?

2. Whether the Tribunal ought to have applied the decision of the Supreme Court in the case of CIT v. Durga Prasad More[1] and that of Sumathi Dayal v. CIT[2], wherein the test of human probabilities were to be considered and applied especially in the absence of any evidence?"

FACTS GIVING RISE TO THE APPEALS:

5.1. In T.C.A.No.714 of 2018, the respondent/assessee, who is engaged in the business of property development and investment, filed his return of income for the Assessment Year 2014-15 admitting total income of Rs.11,88,22,830/-. During scrutiny assessment under

[1] *(1971) 82 ITR 540*
[2] *(1995) 214 ITR 801*

Section 143(3) of the Act, the Assessing Officer noticed that the assessee had sold 7,72,000 shares of PFL Infotech Limited for a sale consideration of Rs.34,68,10,572/-, resulting in Long Term Capital Gain of Rs.32,90,96,125/-, which was claimed as exempt under Section 10(38) of the Act.

5.2. A survey under Section 133A of the Act was conducted at the business premises of the assessee on 19.07.2016, based on market intelligence regarding alleged manipulation of the price of shares of PFL Infotech Limited and a suspected "*pump and dump*" operation. The Assessing Officer, upon analysis, concluded that: (i) the company had no worthwhile credentials or financial standing; (ii) the price of the share rose from Rs.22.38 to Rs.760/- without any corresponding fundamentals; (iii) the assessee lacked prior experience in share trading; (iv) the purchase was made on the strength of an undisclosed "*tip*"; (v) certain purchasers of the shares, upon enquiry, gave contradictory statements; and (vi) the entire transaction bore the hallmark of an accommodation entry designed to convert unaccounted money into exempt Long Term Capital Gain. On this basis, the Assessing Officer treated the sale proceeds as unexplained cash credit under Section 68 of the Act, and, in the alternative, as business income taxable under Section 28 of the Act, thereby denying the exemption claimed under Section 10(38) of the Act. The Commissioner of Income Tax (Appeals) confirmed the assessment.

6. In T.C.A.No.721 of 2018, the respondent/assessee, who is a partner in Diamond Creations and engaged in the jewellery business, similarly claimed exemption under Section 10(38) of the Act in respect of Long Term Capital Gain of Rs.38,05,28,490/- arising from sale of 7,50,000 shares of Risa International Limited, which had been acquired by way of preferential allotment at Rs.10/- per share pursuant to a Scheme sanctioned by the Bombay High Court, and were subsequently sold at prices going up to Rs.600/- per share. On facts materially similar to those in the connected case, and additionally relying upon a statement recorded from one Prasanta Bose, a director of Shallot Vincom Private Limited (through whom certain purchases were routed), the Assessing Officer made an identical addition under Section 68 of the Act, which was confirmed by the Commissioner of Income Tax (Appeals).

7. In both cases, the Tribunal, by the impugned orders, allowed the appeals filed by the assessees, deleted the additions made under

Section 68 of the Act and directed the grant of exemption under Section 10(38) of the Act, holding that the findings of the Assessing Officer, though giving rise to strong suspicion, did not rest on any cogent, corroborated evidence directly implicating the respective assessees in the alleged manipulation.

CONTENTIONS OF THE REVENUE

8. Mr.T.Ravi Kumar, learned Senior Standing Counsel appearing for the Revenue, contended that:

(a) The Tribunal failed to appreciate that the scrutiny assessment revealed huge, disproportionate gains derived by the assessees from trading in shares of companies which were, on the Assessing Officer's own investigation, mere paper/penny-stock companies devoid of any real business substance, and that such gains were rightly brought to tax as unexplained credit under Section 68 read with Section 28 of the Act.

(b) The assessees had no prior expertise or experience whatsoever in share trading, yet made substantial investments running into crores of rupees in wholly illiquid, unknown companies on the strength of an unverified oral "*tip*" received at a social function in Mumbai, without disclosing the identity of the informant, a circumstance which, according to the Revenue, itself gives rise to an adverse inference.

(c) The meteoric and scientifically inexplicable rise in the price of the shares from Rs.22.38 to Rs.760/- per share in the case of PFL Infotech Limited, and from Rs.10/- to Rs.600/- (and later to Rs.177.90, before crashing to Re.0.95) in the case of Risa International Limited, despite the companies possessing negligible turnover, negative reserves and no credible business activity, could not have occurred in the ordinary course of a genuine market transaction and was symptomatic of artificial price-rigging.

(d) Statements recorded from several purchasers of the shares, including Aspi Bamanji Vairava, who denied having purchased the shares of PFL Infotech Limited despite departmental records showing a direct transaction with the assessee, and Pratik Pankaj Kumar Shah and his relatives, who stated that their demat accounts were operated by a third party for commission, demonstrated that the buy-side of the transactions was equally fabricated.

(e) In the case of Risa International Limited, the confession statement of Shri Prasanta Bose, a director of the Shallot group of companies, expressly disclosed that his companies were incorporated for the sole purpose of providing accommodation entries to beneficiaries of penny-stock manipulation in lieu of commission, and this, taken cumulatively with the statement of Abhinandan Jain (a director of the company whose shares were traded, who was in close proximity with the assessees) admitting that the price of the shares had been artificially inflated by named operators in connivance with others, was sufficient material to sustain the addition.

(f) Reliance is placed on the decisions of the Supreme Court in *Sumathi Dayal* (supra) and *Durga Prasad More* (supra) to emphasize that the Tribunal was bound to apply the test of human probabilities enunciated therein, particularly the principle that the taxing authorities are entitled to look at the surrounding circumstances to determine the reality of a transaction, and that mere apparent genuineness on paper, such as banking channel transactions and stock exchange trades, cannot be treated as conclusive when the surrounding circumstances render the transaction inherently improbable.

CONTENTIONS OF THE ASSESSEES

9. Mr.Srinath Sridevan, learned Senior Counsel appearing for the respondents in both appeals, supported the impugned orders and submitted, in substance, as follows:

(a) The entire edifice of the Revenue's case rested on suspicion, surmise and conjecture, and not on any concrete, corroborated material directly connecting either assessee with the alleged manipulation of the price of the shares in question. The Assessing Officer had, at best, established a suspicion regarding the conduct of third parties, viz., the companies themselves and certain intermediaries, but had rendered no independent finding, based on tangible evidence, that either assessee was privy to or complicit in any such manipulation.

(b) It was not in dispute that: (i) the shares were purchased and sold through recognised and regulated stock exchanges; (ii) Securities Transaction Tax was paid on the transactions; (iii) the entire sale consideration was received through regular banking channels; and (iv) in the case of Risa International Limited, the very allotment of shares had been made pursuant to a Scheme of Arrangement sanctioned by the Bombay High Court. These are objective, verifiable facts which the Revenue did not dispute.

(c) Though SEBI had, for a short period, suspended trading in the shares of Risa International Limited, that very suspension order dated 28.03.2016 was set aside by the Securities Appellate Tribunal on 30.03.2016, which fact is not disputed by the Revenue, and no adverse action of any kind was ever taken by SEBI, the stock exchanges or any other regulatory or investigative agency against either of the assessees, nor was any criminal investigation, enforcement proceeding or CBI enquiry pending against them, as fairly conceded by the learned Departmental Representative before the Tribunal.

(d) The buyers of the shares were unrelated and unconnected third parties, unknown to the assessees, who had purchased the shares anonymously through the stock exchange platform; the assessees could not be expected to procure the financial credentials of such strangers, and it was for the Revenue, which possessed statutory powers under Sections 131 and 133(6) of the Act, to have traced and examined those purchasers, which admittedly it did not fully do, several of the summonses under Section 131 of the Act having returned unserved without further follow-up.

(e) The statements of Prasanta Bose and other intermediaries, at best, disclosed a *modus operandi* employed by unrelated entry-operators in relation to a small fraction of the overall trading volume in the scrip; those statements did not implicate either assessee by name, and no corroborative material such as evidence of cash payment by the assessees to any operator was ever brought on record.

(f) It was submitted that the decisions relied upon by the Revenue, namely, *Sumathi Dayal* (supra) and *Durga Prasad More* (supra), were rendered on facts wholly distinguishable, the former concerning consistent and improbable winnings from horse racing (a game of pure chance), and the latter concerning cash credits without any corroborative documentary trail, and were inapplicable to a case involving purchase and sale of listed securities through a recognised and regulated stock exchange, upon payment of Securities Transaction Tax, with full documentary trail of contract notes, demat statements and banking transactions.

(g) He placed reliance on the decisions of the Supreme Court in *Dhakeshwari Cotton Mills Ltd v. CIT*[3]; and *Umacharan Shaw and Bros v. CIT*[4].

10. We have heard learned counsel for both sides, perused the

[3] *(1954) 26 ITR 775*
[4] *(1959) 37 ITR 271*

impugned orders of the Tribunal, the orders of the Assessing Officer and the Commissioner of Income Tax (Appeals), and the material placed on record.

11. It is well settled that an appeal under Section 260-A of the Act lies to this Court only on a "*substantial question of law*". Findings of fact rendered by the Tribunal, being the final fact-finding authority under the Act, are ordinarily binding upon this Court in its appellate jurisdiction under Section 260-A of the Act, unless such findings are shown to be perverse, that is to say, findings arrived at without any evidence, or in disregard of relevant material, or by taking into account irrelevant material, such that no reasonable person, acting judicially and properly instructed as to the relevant law, could have arrived at the conclusion in question. The jurisdiction of this Court is not that of a second appellate authority re-appreciating evidence, but it is confined to correcting errors of law, including the limited category of "*perversity*" which itself partakes the character of a question of law.

12. The Tribunal, in both impugned orders, has undertaken a point-by-point examination of every circumstance relied upon by the Assessing Officer and the Commissioner of Income Tax (Appeals), and

has held that while the circumstances relied upon by the Revenue may well give rise to a strong element of suspicion regarding the genuineness of the price movement in the shares of PFL Infotech Limited and Risa International Limited, respectively, suspicion, however grave, cannot be equated with proof, and cannot by itself displace the documentary evidence, which clearly establishes that:

> (i) the shares were purchased and sold through a recognised and regulated stock exchange;
>
> (ii) Securities Transaction Tax was paid on the transactions;
>
> (iii) the sale consideration was received through regular banking channels;
>
> (iv) the identity of the company whose shares were traded, and its continued listing and trading on the stock exchange was never in question; and
>
> (v) no finding was recorded, based on any positive material, that either assessee had paid unaccounted cash to any operator, or was a party to any agreement to rig the price of the shares.

13. We find considerable force in the observation made by the

Tribunal that the Assessing Officer, despite issuing notices under Section 131 of the Act to the several purchasers of the shares from the assessees, did not carry the investigation to its logical conclusion where such notices returned unserved, notwithstanding that the identity of those purchasers, being traceable through the stock exchange and depository records, was well within the Revenue's reach. Similarly, the persons named by the intermediary witnesses as having orchestrated the alleged price manipulation, such as Hemat Goelka and Naresh Jain, were never summoned or examined by the Assessing Officer and no material was placed before the Tribunal or before us to demonstrate any direct nexus between such persons and either of the respondents/assessees.

14. We are also in agreement with the finding of the Tribunal that the statement of Prasanta Bose, relied upon extensively by the Revenue in the case relating to Risa International Limited, established, at its highest, that a small fraction of the overall trading volume in that scrip was routed through certain accommodation entities, and that even that fraction, when computed proportionately, indicated no direct or acknowledged connection with the respondent/assessee in that appeal. The balance sheet of the very company through which the

impugned shares were said to have been routed did not, on the date material to the enquiry, disclose any holding of the shares in question, a circumstance which further attenuates the evidentiary value of that statement so far as it concerns the respondent/assessee.

15.1. As regards the reliance placed by the Revenue on the decisions in *Sumathi Dayal* (supra) and *Durga Prasad More* (supra), we find that the Tribunal has correctly distinguished those decisions on facts.

15.2. The decision in *Sumathi Dayal* (supra) dealt with introduction of unaccounted funds under the guise of winnings from horse races, a matter of pure chance, where consistent, repeated winnings by the same individual were, on the facts of that case, held to be humanly improbable.

15.3. The decision in *Durga Prasad More* (supra) dealt with unexplained cash credits unsupported by any documentary trail of a nature comparable to the present case.

15.4. Neither decision dealt with, much less laid down any inflexible rule governing, the taxation of gains arising from purchase and sale of listed securities through a recognised stock exchange, accompanied by full documentary support in the form of contract notes, demat statements, and banking records. The "*test of human probabilities*" enunciated in those decisions is undoubtedly a valid and useful tool of appreciation of evidence, but it does not dispense with the requirement that the Revenue must, at the very least, bring on record some positive material connecting the assessee with the alleged design, particularly where the primary documentary evidence of the transaction is not under challenge.

16. We may usefully refer, in this context, to the settled principle enunciated by the Supreme Court in *Dhakeswari Cotton Mills Ltd* (supra), wherein it was held that the powers given to the Income Tax Officer under Section 23(3) of the Act, however wide, did not entitle him to base the assessment on pure guess without reference to any evidence or material. An assessment under Section 23(3) of the Act could not be made only on bare suspicion.

17. The said proposition was reiterated in *Omar Salay Mohamed*

Sait v. CIT[5], by holding that the Tribunal must not base its findings on suspicion, conjecture or surmise, nor act on no evidence, or on improper rejection of material evidence, and that findings so arrived at, even though rendered on questions of fact, are liable to be set aside. An addition sustained principally on suspicion, without concrete, corroborated evidence directly implicating the assessee, cannot be allowed to stand. This principle has been consistently reiterated, including in *Umacharan Shaw and Brothers (supra).*

18. Moreover, as rightly held by the Tribunal, mere steep appreciation in the price of a share does not, by itself, justify treating the resultant capital gain as bogus, where the shares are traded on a recognised stock exchange, the consideration is routed through banking channels and there is no cogent finding that the assessee was a party to, or complicit in, any manipulation of the price.

19. The Tribunal has, in categoric terms, clarified that its findings are confined to the facts and material placed before it in the case of each assessee, and do not constitute a finding, one way or the other, on the general character of the two companies, viz., PFL Infotech

[5] *(1959) 37 ITR 151*

Limited and Risa International Limited, or the transactions in their shares at large. We concur with that approach. We do not express any final opinion on the broader question whether the shares of the said two companies were, in fact, the subject of price manipulation by third parties, or whether any other person connected with those transactions may be liable to be proceeded against on the basis of the material gathered during the investigation. That question does not arise for consideration in these appeals, which are confined to the correctness of the additions made in the hands of the two respondents/assessees.

20. In light of the aforesaid conclusions drawn, we are in complete agreement with the findings recorded by the Tribunal and do not find any error of law or perversity warranting interference by this court in its limited appellate jurisdiction under Section 260-A of the Act. The Tribunal has correctly appreciated the material on record, has applied the correct legal test and has arrived at a plausible view based on the evidence before it.

21. For the reasons recorded above, both the substantial questions of law framed in these appeals are answered against the

Revenue and in favour of the respective assessees. As a sequel, T.C.A.Nos.714 and 721 of 2018 are dismissed.

22. The two other tax case appeals filed by the Revenue are T.C.A.Nos.8 and 9 of 2023, which pertain to the same assessment year 2014-2015. These two appeals were admitted on the following substantial question of law:

> *"Whether, on the facts and in the circumstances of the case, the Tribunal is right in deleting penalty levied under Section 271(1)(c) of the Income Tax Act, when the quantum appeal in T.C.A.No.714 of 2018 is still pending for adjudication before this Court and the issue had not attained finality?"*

23. In as much as this court, for the reasons recorded in the preceding paragraphs, has upheld that order passed by the Tribunal pertaining to the same assessment year, which was the subject matter of challenge in T.C.A.Nos.714 and 721 of 2018, and explicitly held that the Tribunal was right in deleting the addition made under Section 68 of the Act, since the Revenue failed to place on record any cogent, corroborated evidence directly connecting either respondent-assessee with the alleged manipulation of share prices, and the documentary

evidence of the transactions, being trades effected through a recognised stock exchange, upon payment of Securities Transaction Tax, with consideration received through banking channels, was not displaced by any material capable of sustaining the addition, we answer the substantial question of law raised in these appeals, viz., T.C.A.Nos.8 and 9 of 2023, against the Revenue and uphold the order of the Tribunal deleting the penalty.

24. W.P.Nos.16403, 18460, 18461, 18501, 18502, 18503 of 2017; 32631, 32634, 32636 and 32640 of 2018 have been filed by the various petitioners/assessees challenging the proceedings initiated by the Revenue either in reopening of assessment or directing reassessment based on the basis of the findings rendered by the Assessing Officer pertaining to the assessment year 2014-2015, which were set aside in the preceding paragraphs of this judgment pertaining to T.C.A.Nos.714 and 721 of 2018. Therefore, the reopening of assessment or reassessment as proposed to be initiated by way of the orders impugned in these writ petitions are set aside in so far as they are based on the assessment orders which are the subject matter of T.C.A.Nos.714 and 721 of 2018, which have been set aside by us. The writ petitions are allowed to the extent indicated above.

25. In view of the foregoing discussion, we conclude thus:

(a) T.C.A.Nos.714 and 721 of 2018 are dismissed and the impugned orders of the Tribunal are confirmed.

(b) T.C.A.Nos.8 and 9 of 2023 are dismissed and the impugned orders of the Tribunal are confirmed.

(c) W.P.Nos.16403, 18460, 18461, 18501, 18502, 18503 of 2017; 32631, 32634, 32636 and 32640 of 2018 are allowed to the extent indicated above.

(d) There shall be no order as to costs. Consequently, connected interim applications are closed.

(SUSHRUT ARVIND DHARMADHIKARI, CJ) (G.ARUL MURUGAN,J)
28.08.2026

Index : Yes
Neutral Citation : Yes

Note to Registry:

Registry is directed to type separate cause-titles for all the cases while issuing the certified copy of the judgment to the parties.

sasi

THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

(sasi)

T.C.A.Nos.714 of 2018 etc.

28.08.2026