

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

INCOME TAX APPEAL NO. 2012 OF 2017

Principal Commissioner of Income Tax – 3
Mumbai

...Appellant

Versus

Ziauddin A Siddique

...Respondent

Mr. Sham Walve, for the Appellant.
Mr. Sameer Dalal, for the Respondent.

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**CORAM: K. R. SHRIRAM &
N. J. JAMADAR, JJ
DATED: 4th MARCH, 2022**

PC:-

1. The following question of law is proposed:

“Whether on the facts and in the circumstances of the case and in law, the Hon’ble Tribunal was justified in deleting the addition of Rs.1,03,33,925/- made by AO u/s 68 of the I.T. Act, 1961, ignoring the fact that the shares were bought/acquired from off market sources and thereafter the same was demated and registered in stock exchange and increase in share price of Ramkrishna Fincap Ltd. is not supported by the financials and, therefore, the amount of LTCG of Rs.1,03,33,925/- claimed by the assessee is nothing but unaccounted income which was rightly added u/s 68 of the I. T. Act, 1961?”

2. We have considered the impugned order with the assistance of the learned Counsels and we have no reason to

interfere. There is a finding of fact by the Tribunal that the transaction of purchase and sale of the shares of the alleged penny stock of shares of Ramkrishna Fincap Ltd. ("RFL") is done through stock exchange and through the registered Stock Brokers. The payments have been made through banking channels and even Security Transaction Tax ("STT") has also been paid. The Assessing Officer also has not criticized the documentation involving the sale and purchase of shares. The Tribunal has also come to a finding that there is no allegation against assessee that it has participated in any price rigging in the market on the shares of RFL.

3. Therefore we find nothing perverse in the order of the Tribunal.

4. Mr. Walve placed reliance on a judgment of the Apex Court in *Principal Commissioner of Income-tax (Central)-1 vs. NRA Iron & Steel (P.) Ltd.*¹ but that does not help the revenue in as much as the facts in that case were entirely different.

5. In our view, the Tribunal has not committed any perversity or applied incorrect principles to the given facts and when the facts and circumstances are properly analysed and correct test is applied to decide the issue at hand, then, we do not think that

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question as pressed raises any substantial question of law.

6. The appeal is devoid of merits and it is dismissed with no order as to costs.

[N. J. JAMADAR, J.]

[K. R. SHRIRAM, J.]