IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-08-2025

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THE HONOURABLE MR.MANINDRA MOHAN SHRIVASTAVA, CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

TCA No. 157 of 2025

Shobha Lodha
6C Ritherdon Avenue,
Ritherdon Road,
Vepery, Chennai 600007
[PAN: ADLPL5656R] Appellant

Vs

The Income Tax Officer
Non-Corporate Ward 9(1)
Wanaparthy Block II Floor
Chennai, No.121 Mahatma Gandhi
Road, Nungambakkam,
Chennai - 600 034.
Respondent

Prayer: Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of Income Tax Appellate Tribunal, "B" Bench, Chennai, dated 24-04-2024 passed in ITA.No.1072/CHNY/2023 for the assessment year 2016-17.

For Appellant : Mr.Prince Simon

JUDGMENT

(Order of the Court was made by SUNDER MOHAN, J)

The Tax Case Appeal impugns the order dated 24.04.2024 passed by the Income Tax Appellate Tribunal (hereinafter referred to as ***'the ITAT'***) "B" Bench, Chennai.

2. The appeal arises under the following circumstances.

(a) The assessee/appellant, an individual, filed the return of income on 24.03.2018 for the Assessment Year 2016-17, declaring a total income of Rs.1,87,050/-.

(b) The case was reopened under Section 147 of the Income Tax Act [hereinafter referred to as ***'the Act'***] stating that the assessee/appellant had traded in a penny scrip under the name of M/s.Rekvina Laboratories Limited, to the tune of Rs.9,51,795/-, for the financial year 2015-2016, which was not reported in her returns.

(c) The assessee/appellant responded to the notice by stating that the transaction was covered and exempted as Long Term Capital Gains under Section 10(38) of the Act.

(d) On 30.09.2021, the Assessing Officer rejected the explanation offered by the appellant and passed an order making an addition of Rs.9,51,795/- under Section 68 of the Act.

(e) The Commissioner of Income Tax (Appeals), [hereinafter referred to as '***the CIT (A)***'] rejected the grounds of appeal and upheld the order passed by the Assessing Officer by the order dated 24.03.2023.

(f) The ITAT also dismissed the appeal vide the impugned order.

3. The appellant had proposed the following substantial questions of law.

> "1. Whether, on the facts and in the circumstances of the case and in law, the Hon'ble ITAT erred in disallowing the exemption claimed by the appellant under Section 10(38) of the

Income Tax Act, 1961 after due remittance of the STT on the acquisition of the Capital Asset in adherence to Section 112A of the Income Tax Act, 1961?

2. Whether, on the facts and in the circumstances of the case and in law, the Hon'ble ITAT was justified in treating the purchase and sale of shares as bogus when the transaction was carried out on a recognised stock exchange in compliance with SEBI guidelines, and was duly supported by contract notes, demat account statements, and proof of SIT remittance in adherence to Securities Transaction Tax Rules, 2004, without any cogent evidence to rebut the documentary proof furnished by the appellant?

3. Whether, on the facts and in the circumstances of the case and in law, the Hon'ble ITAT was justified in upholding the addition made u/s.68 of the Income Tax Act, 1961, by treating the sale proceeds of impugned equity shares as unexplained credits, despite the appellant furnishing all necessary evidence to establish the nature and source of the sale transaction?

4. From a perusal of the impugned order, it is seen that the ITAT had confirmed the order passed by the CIT(A) and held that the said amount of Rs.9,51,795/- has to be treated as *'income from other sources'* and assessed under Section 68 of the Act. The ITAT also noted that the assessee/appellant did not produce any

evidence either before the Assessing Officer or before the CIT(A) to show that it was a genuine transaction.

5. The CIT(A) found that the assessee/appellant had purchased the shares in cash; that she had not shown these transactions in her return of income and claimed it to be exempted under Section 10(38) of the Act; that the assessee/appellant ought to have shown the said transaction in her return of income, even if it was exempted; that the assessee/appellant had not traded in any other shares; and that there were other circumstances to disbelieve the appellant's case. The CIT(A) also found that though sufficient opportunity was given to the assessee/appellant to prove that it was a genuine transaction, the appellant failed to produce any evidence.

6. The only ground raised by the assessee/appellant before us is that since her husband was bedridden, she was unable to produce the evidence before the Assessing Officer. However, we find that

no such ground was raised either before the CIT(A) or before the ITAT.

7. In any case, the findings of the CIT(A) and the ITAT are on facts. The substantial questions of law proposed do not raise any question of law and are factual. Therefore, we are not inclined to entertain this appeal. Accordingly, this Tax Case Appeal is dismissed. There shall be no order as to costs.

(MANINDRA MOHAN SHRIVASTAVA, CJ)   (SUNDER MOHAN,J)
18.08.2025

Index : Yes/No
Neutral Citation : Yes/No

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To

1. The Income Tax Appellate Tribunal,
Chennai Bench 'B',
Chennai.

2. The Income Tax Officer
Non-Corporate Ward 9(1) Wanaparthy Block
II Floor Chennai, No.121 Mahatma Gandhi Road,
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<u>THE HON'BLE CHIEF JUSTICE</u>
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