



C.M.A.No.65 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 13.03.2026
DELIVERED ON : 02.04.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

CMA No.65 of 2026
and CMP No.635 of 2026

V.S.J.Dinakaran
No.7, Thiruvankarasu Street
Perambur, Chennai – 600 011.

Appellant(s)

Vs

1. IRS, Deputy Commissioner of Income Tax
(Benami Prohibition) Room No. 104,
Income Tax Investigation Wing Building
1st Floor, 108 Mahatma Gandhi Road,
Nungambakkam, Chennai – 600 034.
2. V.K.Sasikala
179/68, Habibullah Road
T.Nagar, Chennai – 600 017

Respondent(s)

PRAYER: Appeal under Section 49 of the Prohibition of Benami Property Transactions Act, 1988 to set aside the order in FPA-PBPT-1516/CHN/2025, dated 16.12.2025 on the file of the Appellate Tribunal under SAFEMA, New Delhi.



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For Appellant(s): Mr. Vijay Narayan
Senior Counsel
for Mr. M.G.Pranava Charan

For Respondent(s): Mrs.M.Sheela
Senior Standing Counsel
and Mr.H.Siddarth
Junior Standing Counsel
for R1

R2 - No Appearance

JUDGMENT

THE CHIEF JUSTICE

Calling into question the legality and veracity of the order dated 16.12.2025 passed by the Appellate Tribunal under SAFEMA, condoning the delay of 763 days in filing the appeal after the expiry of period of limitation, the present appeal is filed.

2. Short facts relevant for disposal of this appeal are as under:

2.1. It is averred that the appellant is one of the co-owners of Spectrum Mall, which was a joint venture between Ganga Foundations Pvt. Ltd and the other owners. During the month of



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November, 2017, a search was conducted by the Income Tax Department in the premises of the appellant, consequent to a search in the case of second respondent.

2.2. It is stated that, during the course of search, the appellant was questioned about the sale of his share in the Spectrum Mall to the second respondent. Since the appellant had no idea about the entire transaction, the appellant has merely refused to comment on the same.

2.3. The appellant thereafter received notices under Section 153C of the Income Tax Act, 1961 for the Assessment Years 2012-13 to 2017-18. In the show cause notice for the assessment year 2017-18, the Assessing Officer, relying on the material seized from the office of Ganga Foundations Pvt. Ltd and the sworn statements recorded thereunder, has proceeded to construe as if the appellant has received a sum of Rs.18 Crores towards the sale of his share in the Spectrum Mall to the second respondent and the Assessing Officer proposed to tax the said amount as advance forfeited under Section 56(2)(ix) of the Income Tax Act.



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2.4. On the basis of the aforesaid material, it is stated that a show cause notice dated 01.11.2019 under Section 24(1) of the Prohibition of Benami Property Transactions Act, 1988 was issued by the first respondent alleging that the appellant is a "benamidar" for the identified beneficial owner viz., the second respondent, with respect to his share in Spectrum Mall. An order of provisional attachment was also made under Section 24(3) of the Prohibition of Benami Property Transaction Act, 1988.

2.5. It is averred that though the appellant has furnished a detailed reply, without considering the reply and without following the principles of natural justice, the first respondent passed the order continuing attachment under Section 24(4) of the Prohibition of Benami Property Transaction Act, 1988 and made a reference to the Adjudicating Authority to conduct the adjudication proceedings under Section 26(3) of the Prohibition of Benami Property Transaction Act, 1988.



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2.6. It is stated that pursuant to the orders passed by this Court in the earlier round of litigation, the Adjudicating Authority considered the reply of the appellant, passed the order under Section 26(3) of the Prohibition of Benami Property Transaction Act, 1988 and refused to confirm the order of attachment made under Section 24(3) holding that there is no "benami transaction".

2.7. It is stated that thereafter the first respondent preferred the statutory appeal before the Appellate Tribunal with a delay of 763 days in filing the appeal. Though the appellant submitted a detailed reply, the Appellate Tribunal has condoned the delay and has posted the matter for further hearing along with a batch of cases. Hence, the present appeal.

3.1. Shri Vijay Narayan, learned Senior Counsel appearing on behalf of the appellant, submitted that though the first respondent did not provide sufficient case for the towering delay of 763 days, the Tribunal condoned the delay exceeding two years. He further submitted that administrative excuses like field work, searches,



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transfer and retirement of successive Initiating Officers do not constitute "sufficient cause".

3.2. It is further submitted that, as per the provisions of the Prohibition of Benami Property Transaction Act, 1988, 45 days is the time limit for filing the appeal, whereas, in the case on hand, the appeal has been filed with a delay of 763 days, without showing sufficient cause and, therefore, the Tribunal ought not to have condoned the delay considering the merits of the case or interest of the State. The perceived strength of the appeal cannot be taken as a basis for condoning the delay, in the absence of there being any sufficient cause.

3.3. To fortify the aforesaid submissions, learned Senior Counsel for the appellant placed heavy reliance on the latest decision of the Supreme Court in *Shivamma v. Karnataka Housing Board and others*¹.

¹ 2025 SCC OnLine SC 1969



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4.1. Per contra, learned Standing Counsel appearing on behalf of the first respondent, submitted that the Tribunal, after hearing both parties and upon consideration of the detailed explanation, exercised its discretion and condoned the delay on being satisfied that sufficient cause had been shown and such finding of the Tribunal does not warrant any interference.

4.2. It is further submitted that the delay occurred due to *bona fide* administrative circumstances beyond the control of the department. The Tribunal, being the statutory fact finding appellate authority, examined the explanation and exercised its discretion to condone the delay.

4.3. Relying on a decision of the Supreme Court in *Vinod Gandhi v. The District Collector, Madurai & Ors.*², it is submitted that the interest of the State should not be made to suffer on account of procedural or administrative circumstances arising in the discharge of official functions. It is further submitted that while procedural discipline is important, a pragmatic and justice-oriented

² SLP (C) No.4337/2025, dated 22.01.2026



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approach must be adopted where public interest is involved, and that the overall circumstances and consequences of refusing condonation must be carefully weighed.

5. Learned Senior Counsel appearing for the appellant, in reply, submitted that the decision of the Supreme Court in *Vinod Gandhi* case, referred supra, pertains to condonation of long delay in filing a review petition. The said decision was rendered on the specific facts involved, whereas the decision in *Shivamma* case, referred supra, applies on all fours to the case on hand and in the light of the law enunciated in the said decision, the order of the Appellate Tribunal is to be set aside.

6. We have heard learned counsel for the parties and perused the order passed by the Appellate Tribunal.

7. A bare perusal of the order impugned passed by the Appellate Tribunal shows that many appeals were filed by the first respondent against the judgment of Adjudicating Authority, where the provisional attachment order was confirmed, however, in this



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solitary case, the provisional attachment order was not confirmed.

This particular case was inadvertently lost sight of by the respondents. The Appellate Tribunal, on threadbare consideration of the case law on the issue, including the decision of the Supreme Court in *Shivamma v. Karnataka Housing Board and others* (supra), on which heavy reliance was placed by learned Senior Counsel for the appellant, condoned the delay in the interest of substantial justice for adjudicating the present appeal on the merits, as many other connected appeals between the same parties are already pending before the Appellate Tribunal.

8. Once the Appellate Tribunal, on being satisfied with the reasons assigned by the respondents herein, in the interest of substantial justice, has exercised its discretion and condoned the delay, this Court sitting in appeal over the same cannot interfere, unless the exercise of discretion was on untenable grounds or arbitrary or perverse. In the case on hand, nothing has been placed to show that the discretion was exercised on untenable grounds or such exercise of discretion was arbitrary or perverse.



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9. For the foregoing reasons, the appeal is dismissed. There shall be no order as to costs. Consequently, interim application stands closed.

(SUSHRUT ARVIND DHARMADHIKARI,CJ) (G.ARUL MURUGAN,J)
02.04.2026

Index : Yes/No
Neutral Citation : Yes/No
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To:

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(Benami Prohibition) Room No. 104,
Income Tax Investigation Wing Building
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