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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ ITA 135/2026 CM APPL. 10947/2026 CM APPL. 10948/2026
PRINCIPAL COMMISSIONER OF INCOME TAX DELHI-20

.....Appellant
Through: Mr. Abhishek Maratha, SSC with Mr.
Apoorv Agarwal, JSC, Mr. Vipul
Acharya, JSC, Ms. Nupur Sharma &
Mr. Gaurav Singh, Advs.

versus

VISHWANATH SINGHALRespondent
Through: Mr. Ruchesh Sinha, Ms. Monalisa
Maity & Ms. Upasna Vashistha,
Advs.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

ORDER
11.05.2026

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1. Mr. Abhishek Maratha, learned Senior Standing Counsel for the appellant-Department invited Court's attention towards the assessment order dated 17.03.2023 and submitted that Assessing Officer has brought to forth, an organised tax evasion ploy adopted by two brokers, namely, Karnam Securities Limited and Lifeline Securities Limited who had arranged forged and bogus transactions for the respondent-assessee, maybe of listed companies.
2. He submitted that the Income Tax Appellate Tribunal, Delhi Bench "SMC" New Delhi, (*hereinafter referred to as 'the Tribunal'*) has rejected appeal filed by the Revenue, simply by observing that the shares in which



the respondent-assessee had dealt, were not penny stocks and was a scrip of a listed company.

3. Inviting Court's attention towards clause 'h' of para no. 3.1 of the Circular dated 15.03.2024 (Circular no.5/2024) issued by the Central Board of Direct Taxes (CBDT), learned Senior Standing Counsel argued that the Tribunal ought not have rejected the appeal without going into the merit of the case.

4. Learned counsel for the respondent on the other hand submitted that the Tribunal has not only rejected the Department's appeal on the tax effect being lesser than the limits prescribed by the Circular no.5/2024, but also on merit. In this regard, he took the Court through the submissions which the Tribunal has noted in para no. 4 & 5 of the impugned order.

5. On going through the record, we feel that the following substantial question of law arise for our consideration:

i) Considering the reasons for which the Assessing Officer had raised demand against the petitioner, (holding the transaction to be non genuine), whether the Tribunal was legally justified in treating the scrips to be penny stock and rejecting the appeal in light of the Circular dated 15.03.2024 (Circular no.5/2024) issued by the Central Board of Direct Taxes (CBDT)?

6. Since the controversy lies in a narrow compass, with the consent of the counsel for the parties, we deem it apt to decide the appeal at this stage itself.

7. On going through para no. 5 of the impugned order, more particularly the following part, we have no iota of doubt that learned members of the



Tribunal have not considered the merits of the case and have rejected the appeal simply on the ground of tax effect involved being lesser than the limits prescribed by the said Circular:

“Hence, without going into the merits of the issue, this appeal is hereby dismissed on the ground of low tax effect. The case does not fall under the exceptions provided in the CBDT Circular. Accordingly, the grounds raised by the revenue are dismissed.”

8. If the order of the Assessing Officer is taken into account, it is apparent that the Assessing Officer was of the view that the respondent-assessee had created false or fictitious transactions *qua* the shares of Eicher Motors Ltd. with the active assistance of the above referred Share Brokers namely, Karnam Securities Limited and Lifeline Securities Limited. The respondent’s transaction with the aid of those brokers was nothing short of organised tax evasion, if found correct.

9. Such being the position, according to us, the case falls in the exception granted in para no. 3.1 of the Circular dated 15.03.2024, particularly clause ‘h’, which reads thus:

“h. Cases involving organized tax evasion including cases of bogus capital gain/loss through penny stocks and cases of accommodation entries,”

10. According to us, clause ‘h’ has wide sweep and the latter part thereof “cases of bogus capital gains/loss through penny stocks and cases of accommodation entries” is explanatory and it does not limit the scope. The use of the expression “including” unequivocally means that all cases involving organised tax evasion shall fall within the ambit of the exception and thus, not be covered by this Circular.

11. The nature of transactions, such as bogus capital gain/loss through



penny stocks and cases of accommodation entries has been given only as examples and they do not, in any manner, confine the applicability of the clause 'h' of para no. 3.1 of the Circular to the cases of bogus capital gain/loss through penny stocks and accommodation entries.

12. In view of the aforesaid the appeal is allowed. The matter is restored to the dockets of the Tribunal. The Tribunal shall hear the appeal on merit and decide the same in accordance with law.

13. Needless to observe, that we have not expressed any opinion on the merit of the case. The Tribunal shall, therefore, be free to take independent conspectus of the factual and legal matrix as law warrants.

14. The appeal stands disposed of alongwith all pending applications.

DINESH MEHTA, J

VINOD KUMAR, J

MAY 11, 2026/sr