

In The High Court at Calcutta
Special Jurisdiction (Income Tax)
Original Side

Reserved On : 22.09.2026
Pronounced On : 05.10.2026

Coram: The Hon'ble Justice Rajarshi Bharadwaj
And
The Hon'ble Justice Sudip Deb

ITAT No.162 of 2026
GA No. 2 of 2026

Principal Commissioner of Income Tax-2, Kolkata

... Appellant

-Vs-

Superdeal Resources Private Limited

...Respondent

Present:

Mr. Soumen Bhattacharjee, Adv.

Mr. Kuntal Kr. Goswami, Adv.

Mr. Raunak Seal, Adv.

... .. for the Appellant

Mr. Subash Agarwal, Adv.

Mr. Smit Shaw, Adv.

... ..for the Respondent

Rajarshi Bharadwaj, J :-

1. The present appeal by the Revenue under Section 260A of the Income-tax Act, 1961(hereinafter referred to as 'the Act') is directed against the order dated

16th September 2025 passed by the Income Tax Appellate Tribunal, “D” Bench, Kolkata in ITA No. 726/Kol/2025 for the assessment year 2022–23.

2. The Appellant/Revenue challenges the deletion of an addition of ₹9,32,00,000 made under Section 68 of the Act in respect of sale proceeds received by the respondent on the sale of unlisted equity shares. The Revenue contends that the purchaser entities were shell or paper companies, that the transactions were accommodation entries, and that the Tribunal failed to apply the test of human probabilities and the principles stated in **Principal Commissioner of Income Tax v. Swati Bajaj**, reported in [2022] 446 ITR 56.

3. The substantial questions of law proposed by the revenue are as under:

- i. *Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in deleting the addition of Rs.9,32,00,000/- made u/s 68, without appreciating that the said amount constituted credit in the books during the relevant previous year, the nature and source of which remained unexplained.*
- ii. *Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in holding that acceptance of share purchase in earlier assessment years precludes the AO from examining the genuineness of sale consideration received in a subsequent year.*
- iii. *Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in ignoring the material findings that the purchaser entities were shell/paper companies with no real business activity or financial capacity, and that the transactions matched the established modus operandi of accommodation entry providers.*
- iv. *Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in applying the settled principle that mere filing of documents and routing of money through banking channels does not*

establish genuineness when surrounding transaction. circumstances indicate a sham

- v. Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in discarding the application of the test of human probabilities and surrounding circumstances as laid down by the Hon'ble Supreme Court, while examining the genuineness of the impugned share sale transaction.*
 - vi. Whether the Learned Income Tax Appellate Tribunal has committed substantial error in law in not appreciating the judicial principles laid down in the matter of Pr. CIT vs Swati Bajaj reported in (2022) 446 ITR 56 wherein the Hon'ble High Court at Calcutta laid down guidelines on the manner in which the allegation against the assessee has to be considered.*
 - vii. That the case falls under the exceptional clause as per para 3.1(h) of CBDT's Circular No. 5/2024 dated 15/03/2024 since it is a case, consisting of addition u/s 68 as unexplained cash credit due to organized tax evasion through accommodation entry. Hence despite low tax effect, the case having exceptional clause specified by the CBDT for further filing of appeal before the High Court is eligible to contest on merit before the Hon'ble Jurisdictional High Court.*
 - viii. That the order passed by the Learned Tribunal is perverse for not adjudicating and or appreciating the facts in its proper aspects.*
- 4.** Section 260A of the Act does not confer a general appellate jurisdiction upon this Court to reappreciate evidence or substitute its view for a plausible view taken by the Tribunal, which is the final fact-finding authority. The expression “substantial question of law” has been explained by the Supreme Court in a catena of judgments like in **Sir Chunilal V. Mehta & Sons Ltd. v. Century Spinning and Manufacturing Co. Ltd.** reported in **AIR 1962 SC 1314**; **Santosh Hazari v.**

Purushottam Tiwari reported in (2001) 3 SCC 179, **Hero Vinoth v. Seshammal** reported in (2006) 5 SCC 545 and **M. Janardhana Rao v. Joint Commissioner of Income Tax** reported in (2005) 273 ITR 50 (SC).

5. A substantial question must be a real, debatable question of law, not a question already settled by binding authority or a mere dispute as to the appreciation of evidence. A finding of fact may be interfered with only in a limited situation where it is shown to be perverse, namely, where it is based on no evidence, ignores material evidence, proceeds on an inadmissible basis or is such that no reasonable tribunal properly instructed in law could have reached it. The mere formulation of questions in the memorandum cannot convert factual grounds into substantial questions of law.

6. The Tribunal recorded that the investments had been acquired in earlier years and that the relevant investment transactions had been disclosed in the books of account. It further recorded that the respondent had furnished purchase and sale bills, investment statements, bank statements, confirmations, income-tax returns, addresses, audited financial statements and other particulars concerning the purchasers. The Tribunal also noted that notices issued to the purchasers under Section 133(6) had been responded to and that the material placed by the respondent was not displaced by any independent and substantive evidence produced by the Assessing Officer.

7. The Tribunal also took note of the respondent's regular activity of purchase and sale of investments, the movement of investments over the years, the fact that the sale proceeds were received through banking channels and the fact that the

investments had not been doubted in earlier scrutiny proceedings. On that evidentiary record, it concluded that the Revenue had not established that the entire sale consideration represented unexplained cash credit in the hands of the respondent.

8. The applicability of Section 68 of the Act depends upon the nature of the credit and the material available in the particular assessment year. The assessee must explain the nature and source of the credit and the explanation must be tested on the entirety of the evidence. The Assessing Officer shall consider the surrounding circumstances and the test of human probabilities, but shall not authorise an addition founded on suspicion, generalised allegations or an inference unsupported by evidence.

9. The decision in **Swati Bajaj (supra)** does not lay down the proposition that every sale of unlisted shares, or every transaction involving a company alleged to be a shell entity, must automatically be treated as bogus. The principles laid down therein require a holistic examination of the evidence and surrounding circumstances. In the present case, the Tribunal undertook such an examination. Whether the documents furnished by the respondent sufficiently established identity, creditworthiness and genuineness, whether the purchasers' responses were reliable and whether the surrounding circumstances warranted an inference of accommodation entry are essentially questions of fact.

10. The Appellant/Revenue has not demonstrated that the Tribunal applied an incorrect legal test. Nor has it identified any material evidence which the Tribunal failed to consider. The submission that the purchasers were shell or paper

companies, without pointing to independent material establishing that the particular sale proceeds received by the respondent represented the respondent's own undisclosed money, seeks a reappraisal of the factual record. That exercise is outside the limited jurisdiction under Section 260A.

11. The earlier acceptance of the investments does not create an absolute bar against examination of a later sale transaction. However, it is a relevant evidence in evaluating the Revenue's subsequent allegation that the very investments were fictitious from inception. In the present case, the Tribunal did not treat earlier assessments as an estoppel in law rather it considered them cumulatively with the books, investment statements, sale documents, bank records, purchaser confirmations and replies to statutory notices. The Revenue's contention therefore does not raise any substantial question of law.

12. No substantial question of law arises for consideration under Section 260A of the Act. The appeal is, accordingly, dismissed at the stage of admission. The connected application, if any, is disposed of.

13. There shall be no order as to costs.

14. Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

Kolkata
PA (BS)
05.10.2026

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(**Rajarshi Bharadwaj, J**)

.....
(**Sudip Deb, J**)