Principal Commissioner of Income Tax-2, Kolkata v. Superdeal Resources Private Limited

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

ITAT No. 162 of 2026 (Cal HC, decided 05.10.2026) | 2026-10-05

Section 68 addition of Rs. 9.32 crore on sale of unlisted equity shares deleted; Pr. CIT v. Swati Bajaj distinguished where documentary record and section 133(6) replies stood uncontroverted.

Income-tax Act, 1961: sections 68, 133(6) and 260A

High Court at Calcutta | 2-judge bench (Division Bench) | Rajarshi Bharadwaj, J. | Sudip Deb, J.

Assessment years: 2022-23

Evidence-specific result, not immunity for share-sale credits

Earlier acceptance of investments was corroborative, not an estoppel. The Court required holistic evidence and found no demonstrated perversity. Swati Bajaj was applied in that evidentiary setting, not disapproved.

01 FACTS OF THE CASE

For AY 2022-23, the Assessing Officer added Rs. 9,32,00,000 under section 68 in respect of sale proceeds received by Superdeal Resources Private Limited on the sale of unlisted equity shares acquired in earlier years, alleging that the purchaser companies were shell/paper entities providing accommodation entries. The ITAT Kolkata 'D' Bench (order dated 16.09.2025 in ITA No. 726/Kol/2025) deleted the addition after recording that the investments had been disclosed in earlier years' books and accepted in earlier scrutiny assessments, the assessee had furnished purchase and sale bills, investment statements, bank statements, confirmations, ITRs and audited financials of the purchasers, and the purchasers had duly responded to notices under section 133(6) without the AO producing any independent contrary evidence. The Revenue appealed under section 260A, invoking Pr. CIT v. Swati Bajaj, [2022] 446 ITR 56 (Cal) and para 3.1(h) of CBDT Circular No. 5/2024.

Source: Paragraphs 1-3, 6-7; PDF pp. 1-5

02 DISCUSSION BY THE HON'BLE COURT

The Division Bench held that while the Assessing Officer must consider surrounding circumstances and the test of human probabilities under section 68, an addition cannot rest on generalised suspicion or unsubstantiated allegations. Explaining Pr. CIT v. Swati Bajaj, [2022] 446 ITR 56 (Cal), the Court held that Swati Bajaj does not lay down an automatic rule that every sale of unlisted shares or every transaction with an alleged shell company is bogus; rather, it requires a holistic examination of the evidence. Here, the Tribunal had examined the cumulative documentary record—earlier-year investment disclosures, banking channel receipts, purchaser financials, and compliant section 133(6) responses—and the Revenue pointed to no independent material showing that the sale proceeds represented the assessee's own undisclosed funds. Further, while earlier-year acceptance of share purchases is not an absolute legal estoppel against examining a later sale, it is relevant corroborative evidence.

Source: Paragraphs 4-11; PDF pp. 3-6

03 JUDICIAL DECISION

Holding that the Revenue sought a mere reappraisal of factual findings without demonstrating perversity and that no substantial question of law arose under section 260A, the High Court dismissed the appeal at the admission stage along with GA No. 2 of 2026, with no order as to costs.

Source: Paragraphs 10-13; PDF pp. 5-6

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee (Superdeal Resources Private Limited). The Revenue's appeal was dismissed at admission, leaving the deletion of the Rs. 9,32,00,000 section 68 addition undisturbed.

Source: Paragraphs 12-13; PDF p. 6

05 EXPERT COMMENTS

Reconcile acquisition and disposal evidence — The Court considered the history of holdings alongside sale documents, bank entries and purchaser material. Build a transaction-level reconciliation from opening investments to shares sold and consideration received. Earlier scrutiny acceptance supports that narrative but cannot replace proof of the later credit or prevent examination of new contrary evidence.

Banking channels are part of a cumulative case — The result rested on more than payment through a bank: purchaser particulars, audited accounts and replies to section 133(6) notices were considered and not displaced by independent substantive evidence. A documentary checklist alone is not a guarantee. Assess whether the material actually explains identity, capacity and genuineness.

Human probabilities require a factual connection — The Court did not reject Swati Bajaj or the surrounding-circumstances test. It rejected automatic treatment of every alleged shell-company transaction as bogus. A useful challenge must connect credible adverse material to the particular receipts and address the taxpayer's explanation, rather than repeat an untested description of the purchasers.

An appeal exception does not establish a question of law — Revenue invoked the CBDT low-tax-effect exception, but the Court dismissed for want of a substantial question under section 260A. The order does not separately decide that circular's applicability. Identify ignored material, an incorrect legal test or demonstrable perversity; permission to contest cannot substitute for that jurisdictional requirement.

Source: Editorial analysis; sources identified in the structured comments

SOURCE & VERIFICATION

Calcutta High Court official judgment PDF - AKHB Cloud Repository

Complete 6-page original reviewed; scope and source anomalies stated below.

All 6 source pages read and visually inspected; original hash verified. AI-assisted substantive review.

Open cited source rendition

Source bytes and identity checked; see panel-specific source references.

STATUTORY SCOPE

Sections 68, 133(6) and 260A for AY 2022–23; current-law equivalence and later treatment not independently verified.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment not independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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