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Order QR

Rev.Appl.No.107 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.09.2026
DELIVERED ON : 28.09.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

REV.APPL.No. 107 of 2021

CNR:{HCMA013068562018}

and C.M.P.No.7209 of 2023



Case QR

V.Babu
No.6, 5th Cross Lake Area
Nungambakkam, Chennai-600034.

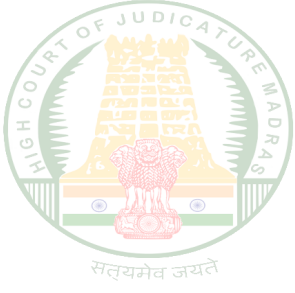
Appellant(s)

Vs

Deputy Commissioner if Income Tax
Non Corporate Range 3
Chennai - 600034.

Respondent(s)

PRAYER: Review filed under Order 47 Rule 1 read with Section 114 of the Civil Procedure Code to review the judgment dated 23.02.2016 in T.C.(Appeal) No.104 of 2016.



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For Appellant(s): Mr.N.V.Balaji

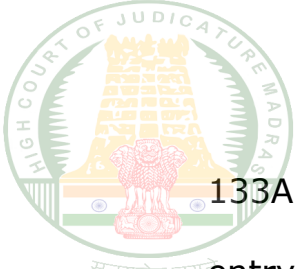
For Respondent(s): Mr.T.Ravikumar,
Senior Standing Counsel
asst by Mr.Umesh Rao.K.
Junior Standing Counsel

JUDGMENTTHE CHIEF JUSTICE

This review application seeks to review the judgment dated 23.02.2016 passed by this Court in Tax Case Appeal No.104 of 2016. By the said judgment, this Court dismissed the assessee's appeal on the ground that no substantial question of law arose for consideration against the order of the Income Tax Appellate Tribunal (ITAT), Chennai 'C' Bench, dated 21.08.2015 in ITA.No.296/Mds/2015.

2.1. The facts in a nutshell are that the review petitioner (assessee) is an individual engaged in the civil contract business. For the Assessment Year 2007-08, the assessee filed return of income on 13.11.2007, declaring a total income of Rs.16,27,456/-.

2.2. During a survey conducted on 03.03.2010 under Section



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133A of the Income-tax Act, 1961, the Revenue discovered a bank entry of Rs.10 Crores credited to the assessee's account on 09.02.2007. The assessee explained that the deposit was received from Commercial Buildwell Private Limited as an accommodation entry requested by his friend, K.R.Elangovan. He stated that he retained Rs.3 Lakhs as commission and transferred Rs.9.97 Crores to Mohanlal Jewellers.

2.3. The Assessing Officer reopened the assessment under Section 147 of the Act by issuing notice under Section 148 of the Act. The Assessing Officer added Rs.10 Crores to the assessee's income under Section 68 of the Act as unexplained cash credits. Both the Commissioner of Income Tax (Appeals) and the ITAT upheld the addition made by the Assessing Officer.

2.4. The assessee filed Tax Case Appeal No.104 of 2016, which was dismissed by this Court on 23.02.2016 due to the absence of any substantial question of law.

2.5. The assessee filed a Special Leave Petition (SLP (C)



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No.27530 of 2016) before the Supreme Court. The SLP was dismissed by order dated 11.9.2017.

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3.1. Learned counsel for the assessee contends that new material documents obtained under the Right to Information Act, which include Sale Deed Document Nos.3200 of 2007 and 3201 of 2007 registered at the Sub-Registrar Office, Sulur, and the ITAT order dated 08.05.2015 in the case of a co-confirming party, P.Elango (ITA Nos.1392 & 2973/Mds/2014), have now come to his knowledge.

3.2. Learned counsel submits that the sale deed lists the receiving party as "M/s.Babu & Associates," a partnership firm represented by C.Karthikeyan, and not the assessee in his individual capacity. He added that in P.Elango's case, the Tribunal remitted the matter for *de novo* consideration. In any event, he submitted that the assessee acted merely as an accommodating party and did not keep the sale proceeds.

3.3. Learned counsel for the assessee argued that as per



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paragraph 17.1 of the judgment of the Supreme Court in *Malleeswari v. K. Suguna*¹, a review application is maintainable on the ground of discovery of new and important matter or evidence.

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4.1. Refuting the aforesaid submissions, learned Senior Standing Counsel for the Revenue submits that there is no error apparent on the face of the record to justify a review.

4.2. Learned Standing Counsel drew our attention to paragraph 8 of the ITAT order dated 21.08.2015, which explicitly records that *"Even though the assessee has raised a ground regarding reopening of assessment, no argument was advanced during the course of hearing either by the assessee or by the Revenue."* He, therefore, asserts that the assessee cannot raise pleas in review that were explicitly waived or not argued before the Tribunal.

4.3. It is further submitted that the receipt of Rs.10 Crores in the assessee's personal bank account is an admitted fact. The

¹ 2025 SCC OnLine SC 1927



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assessee failed to establish the identity, financial capacity, and genuineness of the transaction under Section 68 of the Act.

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4.4. He also submitted that the proprietor of Mohanlal Jewellers deposed under oath that he supplied gold bullion to "M/s.Babu & Associates", but could not identify the assessee or establish delivery proof during cross-examination. Therefore, the alleged transfer of Rs.9.97 Crores remains an unsubstantiated outflow.

5. We have heard learned counsel on either side and perused the documents available on record.

6. Section 68 of the Act provides that where any sum is found credited in the books of an assessee and the assessee offers no explanation about the nature and source, or the explanation offered is not satisfactory to the Assessing Officer, the sum may be charged to income-tax.

7. In the case at hand, the receipt of Rs.10 Crores into the



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bank account of the assessee on 09.02.2007 is uncontroverted.

The initial burden lies entirely on the assessee to establish three essential conditions: (i) Identity of the creditor; (ii) Creditworthiness of the creditor; and (iii) Genuineness of the transaction. The explanation offered by the assessee that he received Rs.10 Crores as an accommodation entry and passed on Rs.9.97 Crores to a third party, was tested by the authorities and found completely unsatisfactory. A mere paper arrangement or routing of funds through a personal bank account does not discharge the statutory burden under Section 68 of the Act.

8. The Supreme Court has repeatedly held that Section 68 of the Act places a strict burden of proof on the assessee. Where money is admitted to have entered the assessee's account, the assessee must offer a plausible, evidence-backed explanation regarding its nature and source. Failure to do so legally justifies treating the entire credit as income.

9. The law governing review applications under Order XLVII Rule 1 read with Section 114 of the Code of Civil Procedure, 1908,

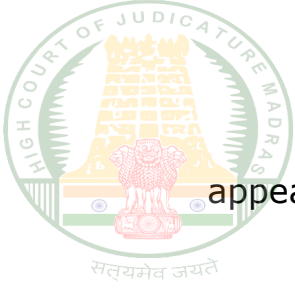


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is well settled. In *Malleeswari* (supra), the Supreme Court summarized the scope of review jurisdiction and emphatically held that a review proceeding is not an appeal in disguise and that rehearing of a matter on merits or substituting a view is impermissible.

10. As per paragraph 17.1 of the decision in *Malleeswari* (supra), on which reliance was placed by learned counsel for the assessee, the discovery of new evidence can be a ground for review, but that ground can be raised only if the review petitioner demonstrates that, despite exercising due diligence, such evidence was not within his knowledge or could not be produced when the original order was passed.

11. In this case, the documents now relied upon by the assessee (sale deeds of 2007 and tribunal orders of 2015) were available in public records during the original assessment and appellate proceedings. The assessee failed to demonstrate due diligence. Re-evaluating the same set of factual explanations under the guise of "*new material*" amounts to seeking a re-hearing of the

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appeal, which review jurisdiction strictly forbids.

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12. To sum up, we hereby record that the receipt of Rs.10 Crores in the assessee's bank account remains undisputed. The explanation offered by the assessee was thoroughly evaluated and rightly rejected by the fact-finding authorities. The assessee failed to discharge the statutory burden imposed under Section 68 of the Act. No mistake or error apparent on the face of the record has been demonstrated in the judgment dated 23.02.2016 passed in Tax Case Appeal No.104 of 2016.

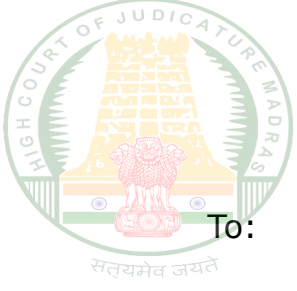
For the foregoing reasons, the review application lacks merit and is accordingly dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

(SUSHRUT ARVIND DHARMADHIKARI, CJ) (G.ARUL MURUGAN,J)
28.09.2026

Index : Yes
Neutral Citation : Yes
sasi



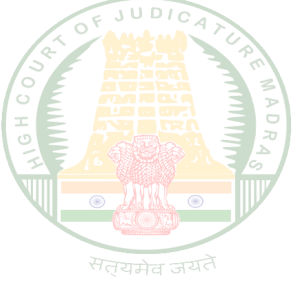
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To:

The Deputy Commissioner of Income Tax
Non Corporate Range 3
Chennai - 600034.

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THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

(sasi)

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