APPELLATE TRIBUNAL UNDER SAFEMA AT NEW DELHI

(1) MP-PBPT-3293/CHN/2025 (Stay)
FPA-PBPT-691/CHN/2025
DCIT, BPU, Chennai ... Appellant/Applicant

Versus

R. Bharathi & Anr. ... Respondents

(2) MP-PBPT-3306/CHN/2025 (Stay)
FPA-PBPT-722/CHN/2025
DCIT, BPU, Chennai ... Appellant/Applicant

Versus

Shri R. Gopalakrishnan & Anr. ... Respondents

(3) MP-PBPT-3316/CHN/2025 (Stay)
FPA-PBPT-690/CHN/2025
DCIT, BPU, Chennai ... Appellant/Applicant

Versus

Shri K. Viswanathan & Anr. ... Respondents

(4) MP-PBPT-3280/CHN/2025 (Stay)
FPA-PBPT-692/CHN/2025
DCIT, BPU, Chennai ... Appellant/Applicant

Versus

Shri S. Navaneethan & Anr. ... Respondents

(5) MP-PBPT-3302/CHN/2025 (Stay)
FPA-PBPT-665/CHN/2025
DCIT, BPU, Chennai ... Appellant/Applicant

Versus

E.S. Mani & Anr. ... Respondents

(6) MP-PBPT-3289/CHN/2025 (Stay)
FPA-PBPT-673/CHN/2025
DCIT, BPU, Chennai ...
Appellant/Applicant

Versus

R. Gomathi & Anr. ... Respondents

(7) MP-PBPT-3282/CHN/2025 (Stay)
FPA-PBPT-688/CHN/2025
DCIT, BPU, Chennai ...
Appellant/Applicant

Versus

Shri V. Karthikeyan & Anr. ... Respondents

(8) MP-PBPT-3318/CHN/2025 (Stay)
FPA-PBPT-727/CHN/2025
DCIT, BPU, Chennai ...
Appellant/Applicant

Versus

Shri M. Palanivelan & Anr. ... Respondents

(9) MP-PBPT-3278/CHN/2025 (Stay)
FPA-PBPT-717/CHN/2025
DCIT, BPU, Chennai ...
Appellant/Applicant

Versus

P. Shanmugavel & Anr. ... Respondents

(10) MP-PBPT-3287/CHN/2025 (Stay)
FPA-PBPT-728/CHN/2025
DCIT, BPU, Chennai ...
Appellant/Applicant

Versus

Shri Balamurali Krishnana & Anr. ... Respondents

(11) MP-PBPT-3305/CHN/2025 (Exem.)
FPA-PBPT-666/CHN/2025
DCIT, BPU, Chennai ...
Appellant/Applicant

Versus

K. Moorthy & Anr. ... Respondents

(12) MP-PBPT-3314/CHN/2025 (Stay)
FPA-PBPT-689/CHN/2025
DCIT, BPU, Chennai ...
Appellant/Applicant

Versus

R. Selvarani & Anr. ... Respondents

(13) MP-PBPT-3297/CHN/2025 (Stay)
MP-PBPT-3298/CHN/2025 (Exem.)

FPA-PBPT-667/CHN/2025
DCIT, BPU, Chennai ...
Appellant/Applicant

Versus

Shri P. Navaladi & Anr. ... Respondents

(14) MP-PBPT-3284/CHN/2025 (Stay)
FPA-PBPT-720/CHN/2025
DCIT, BPU, Chennai ...
Appellant/Applicant

Versus

G.V. Arun & Anr. ... Respondents

(15) MP-PBPT-3321/CHN/2025 (Exem.)
FPA-PBPT-672/CHN/2025
DCIT, BPU, Chennai ...
Appellant/Applicant

Versus

B. Santhi & Anr. ... Respondents

(16) MP-PBPT-3295/CHN/2025 (Stay)
FPA-PBPT-721/CHN/2025
DCIT, BPU, Chennai ...
Appellant/Applicant

Versus

K. Kanagarajan & Anr. ... Respondents

(17) MP-PBPT-3299/CHN/2025 (Stay)
FPA-PBPT-729/CHN/2025
DCIT, BPU, Chennai ...
Appellant/Applicant

Versus

Legal Heir Smt. Rajeshwari & Anr. ... Respondents

(18) MP-PBPT-3312/CHN/2025 (Stay)
FPA-PBPT-674/CHN/2025
DCIT, BPU, Chennai ...
Appellant/Applicant

Versus

Legal Heir Smt. Mohana & Anr. ... Respondents

Advocates/Authorized Representatives who appeared

For the Appellants	:	Shri Anish Dhingra, S.P.P.
For the Respondent No. 1	:	Mr. T. Pramod Kumar Chopda, Adv. Mr. Durai Raj, Adv. Ms. P. Deepika Chopda, Adv.
For the Respondent No. 2	:	Dr. M.R. Venkatesh, Adv. Mr. B. Ramakrishnan, C.A.

CORAM

JUSTICE MUNISHWAR NATH BHANDARI	:	**CHAIRMAN**
SHRI V. ANANDARAJAN	:	**MEMBER**

ORDER
18.08.2026

The batch of appeals have been preferred by the DCIT, BPU, Chennai to challenge the order dated 27.06.2025 passed by the Adjudicating Authority denying confirmation of provisional attachment of the properties finding it to be not involved in the benami transaction.

Brief facts of the case:

2. The case was initiated based on the discreet enquiry and evidence gathered during the course of search and seizure in the case of M/s Shobikaa Impex Pvt. Ltd. (in short "**M/s SIPL**"). A case of benami transaction in the name of Smt. R. Bharathi and others was revealed.

3. It was found that M/s SIPL has inflated the expenses to reduce its taxable income by adopting a peculiar modus operandi where they had shown 'bogus expenses' in the books of account in the name of 'Trade Payable' and subsequently it was converted as "Securities Premium".

4. The bogus expenses were booked by the company in the name of 'Job Workers'/ Contractors without actual receipt of the goods or the services and even without making actual payment to the 'job workers' but accounted by way of liability in the form of 'Trade Payables'. The corresponding asset thereupon matched by increase in the investments, fixed deposits and closing stock. In the inquiry, it was revealed that an amount of Rs.117,65,37,129/- was reflected in the balance sheet of the company as "Trade Payables", outstanding for more than one year as on 31.03.2017.

5. The modus operandi was admitted by the director of the Company vide his sworn statement recorded during the course of search proceedings under Section 132 of the Income-tax Act, 1961 (in short "**the IT Act of 1961**"). The modus operandi adopted by the company was confirmed even by Shri D. Ramanathan, Manager (Finance & Accounts) of M/s SIPL. It was also confirmed by Shri Sivasamy, Managing Director of the company vide his sworn statement recorded during the course of search proceedings under Section 132 of the IT Act, 1961.

6. It was found that in the Financial Year 2017-18, the liability of "Trade Payables" was shown outstanding for more than one year. It was then converted into "Securities Premium Reserve" in the name of the 'job workers' allotting them the equity shares of Rs.100/- at the premium of Rs. 750/-. It was also found that there were similar allotment to 22 other entities.

7. It was also found that separate bank account, separate email IDs etc. were created in the name of the "job workers" which were actually operated by the persons belonging to M/s SIPL for the purpose of fulfilling statutory obligations and routing the funds through bank transfer/ cheque as per the requirement to project it to be a real business transaction, though, it was to evade the tax.

8. In the process of investigation, it was found that M/s AabaaKnittings, a proprietary concern of Smt. R. Bharathi, (one of the job worker) whose name was shown towards liability under the head 'Trade Payables' during the Financial Year 2016-17 and a liability under the head 'Share Capital' during the Financial Year 2017-18 in the books of accounts of M/s SIPL. It was also found that there was no such corresponding 'Assets' reflected in the books of account of M/s AabaaKnittings of Smt. R. Bharathi as per the ITRs. The investigation also revealed that the unsigned Share Certificates of M/s SIPL in the name of Smt. R. Bharathi and cheque book, letter heads and empty bills of M/s AabaaKnittings were found in the premises of M/s SIPL. The benamidar, Smt. R. Bharathi was unaware of any such transaction carried out in her name or being a creditor of M/s SIPL. It was even allotment of equity shares in her name or subsequent transfer of those shares through buy-back, the receipt and transfer of any funds for it. The case of benami transaction was accordingly found under Section 2(9)(C) of the Prohibition of Benami Property Transactions Act, 1988 (in short "**the Act of 1988**") and accordingly an order of provisional attachment of the properties was made. The order has not been confirmed by the Adjudicating Authority and aggrieved with the aforesaid, the present appeals have been preferred by the appellant, DCIT, BPU, Chennai.

Arguments of the Ld. Counsel for the appellants:

9. Ld. Counsel for the appellants submitted that despite the evidence collected by the Initiating Officer to show that the trade liability was created in the name of job workers in the books of M/s SIPL, though, there was no such liability and the job workers were not even aware of it. The said trade liability was then converted into the equity shares in the name of the job workers whereas in reality, job workers were not aware of the allotment of equity shares in their names. It is coupled with buy-back of those equity shares by transferring the equity shares to Shri M. Sivasamy whereas in reality, the job workers were not aware of such transfer. It is with the further submission that payments for buy-back of equity shares from job workers was not in reality but paid through Wire Transfer and was ultimately received back in cash through some intermediate entities. The bank accounts, letter heads, email ids were created by the persons belonging to M/s SIPL in the names of the 'Job Workers' and were used as per the requirements of M/s SIPL and Shri M. Sivasamy. The job workers were not knowing about the transaction, availability of share certificates, cheque books and bank passbooks. It was found in the custody of M/s SIPL and therefore a case of benami transaction under Section 2(9)(C) of the Act of 1988 was made out. However, Ld. Adjudicating Authority refused to confirm the provisional attachment of the property ignoring all these facts and more specifically the statement of Smt. R. Bharathi recorded by the Income Tax Authorities, though, she changed her version in the cross-examination before the Adjudicating Authority but that cross-examination should not have prevailed over the statement recorded by the Income Tax Authorities. The prayer was accordingly made to cause interference in the impugned order.

10. Ld. Counsel for the appellants did not raise any other argument than referred to above, despite being given an opportunity and being called upon by the Tribunal to raise any legal or factual issue. Ld. Counsel for the appellants has shown his satisfaction to the arguments raised by him and accordingly prayed for quashing of the impugned order passed by the Adjudicating Authority.

Arguments of the Ld. Counsel for the respondent:

11. Ld. Counsel for the respondent contested the appeals on all the grounds raised by the appellants. Elaborate arguments were made for the aforesaid, which would be referred while dealing with each and every argument raised by the appellants to avoid repetition of one and the same facts and otherwise for the sake of brevity.

Findings of the Tribunal:

12. We have considered the rival submissions of the parties and scanned the records carefully. The impugned order has been passed by the Adjudicating Authority denying confirmation of the provisional attachment of the properties by a detailed order, which has been challenged by the appellants. Elaborate arguments were made to question the correctness of the order passed by the Adjudicating Authority.

13. Before the issues raised by the appellants are taken up, it would be gainful to quote the provision under which the transaction was taken to be the benami in nature. It was under Section 2(9)(C) of the Act of 1988. The said provision is quoted hereunder for ready reference:

> *2. Definitions.— In this Act, unless the context otherwise requires,—*
>
> *(1) to (8) xx xx xx xx xx xx xx xx xx*
>
> *(9) "benami transaction" means,—*
>
> *(A) to (B) xx xx xx xx xx xx xx xx xx*
>
> *(C) a transaction or an arrangement in respect of a property where the owner of the property is not aware of, or, denies knowledge of, such ownership;*
>
> *(D) xx xx xx xx xx xx xx xx xx xx*

14. The provision quoted above refers to the transaction to be benami where owner of the property is not aware of, or, denies knowledge of the ownership. According to the appellants, the benamidar had no knowledge of the transaction where initially M/s SIPL created entry of "Trade

Payables' for the payment to the job workers/ contractors without actual service. It was subsequently converted into "Securities Premium". One of the benamidar was Smt. R. Bharathi said to be holding M/s AabaaKnittings. It is a fact that when the income-tax proceedings were initiated, the statement of Smt. R. Bharathi apart from others were recorded to find out the ownership of the shares transferred in the name of the benamidars to settle the expenses shown towards 'Trade Payables". It was at the premium of Rs.750/-. The shares aforesaid were purchased back by the company. The allegation is that buy-back of those shares by the company was not in the knowledge of the benamidar so as the allotment. The substance of the allegation is that the benamidar had no knowledge of the transaction and therefore a case of benami transaction was made out under Section 2(9)(C) of the Act of 1988.

15. The Adjudicating Authority did not accept the arguments raised by the appellant on the ground that when the prayer for cross-examination by the respondent was accepted followed by cross-examination of the witnesses which include Smt. R. Bharathi, she had shown her awareness about the allotment of the shares and subsequent buy-back with receipt of the consideration in the bank account though in the statement before the Income Tax Authorities, she had shown her unawareness about the transaction. The issue for our consideration is that if there exists contradiction in the statements made under the IT Act, 1961 and the statement in the cross-examination in the proceedings under the Act of 1988, which statement should prevail. The issue is not difficult to answer because if a statement is recorded under the Act of 1988, it would prevail and not the conflicting statement recorded in any other statute. It may be even the statement recorded in the cross-examination.

16. The perusal of the statement in the cross-examination reveals admission of the benamidar of her knowledge for allotment of shares and the other transactions related to it. Once such a disclosure was made by the benamidar, Ld. Counsel for the appellants could not clarify as to how a case of benami transaction would be made out under Section 2(9)(C) of the Act of 1988. It may be a case for evasion of tax by creating bogus trade payables in the name of the job workers but if the person to whom shares were allotted had knowledge of the transaction and he/she remains owner of the property till buy-back of shares by the company, a case would not fall under Section 2(9)(C) of the Act of 1988.

17. We, further, find that the appellants herein should not have caused the proceedings followed by the provisional attachment of the property only based on borrowed satisfaction. An order in favour of the respondent company has, otherwise, been passed by the Interim Board for Settlement, New Delhi under Section 245-B(4) of the IT Act of 1961 where the "Trade Payables" were held to be genuine. However, we will not go deep further because that was subject matter under the IT Act of 1961. It was to address the allegation that fictitious or bogus expenses were shown to evade the income-tax. The allegation aforesaid would not result in benami transaction unless the ingredient of "Benami Transaction" defined under Section 2(9)(C) of the Act of 1988 is satisfied in the facts and circumstances of the case. It may, however, be with a clarification that Section 245-B of the IT Act or Section 245(I) of the IT Act cannot override the provisions of other statute. In fact, the order passed by the Interim Board for Settlement would be final and conclusive on the proceedings of the nature undertaken by the Income Tax Department and it would be on a related proceedings but not on the proceedings under a separate statute, inasmuch as the provisions aforesaid are not having overriding effect. Thus, to that extent, we are not in agreement with the finding of the Adjudicating Authority.

18. The Adjudicating Authority has, further, taken note of the order of the NCLT's Chennai dated 26.04.2024. The allotment of equity shares therein has been cancelled and therefore the alleged benami property was not even existing on cancellation of the allotment of the equity shares.

19. The Adjudicating Authority has even taken note of discrimination on the ground that selective case of 18 job workers was taken leaving 04 job workers similarly placed. It is, however, a fact that all those 18 job workers in their cross-examination confirmed that they were knowing about allotted shares in their names so as its subsequent transfer of which they have received consideration in their bank accounts. The fact aforesaid is quite relevant and has been taken by the Adjudicating Authority for passing order and we confirm the order other than the observations regarding selective action against few job workers leaving others. The denial of confirmation of the provisional attachment is mainly in reference of the statement in the cross-examination where all the job workers had admitted about their knowledge for allotment of shares so as its buy-back followed by the payment of consideration in their bank accounts. In fact, if the entire transaction was bogus and fictitious, there was no reason for the benamidar to receive the payment on buy-back of the shares and that too when it was credited in their bank accounts.

20. It is also a fact that in the proceedings under the IT Act, 1961, the statements of the benamidar were recorded under Section 131 of the IT Act, 1961 and not under Section 132(4) of the IT Act. The appellants presumed statement to be under Section 132(4) of the IT Act and in any case it could have been a case of evasion of income-tax but could not have been converted into a case of benami transaction under Section 2(9)(C) of the Act of 1988. The Adjudicating Authority, thus, rightly taken a view adverse to the appellants and thereby refused to confirm the PAO.

21. The material on record shows that the main allegation was of the book entry towards 'Trade Payables' and was subsequently used for allotment of shares to the job workers followed by its conversion into "Securities Premium". It is followed by buy-back of the shares were with the payment of the consideration within the knowledge of the benamidar. Thus, any transaction in the knowledge of benamidar would not be construed to fall under Section 2(9)(C) of the Act of 1988.

22. In the light of the discussions made above, we do not find any error in the impugned order so as to cause interference therein.

23. In In view of the above, the appeals fail and are dismissed.

(Justice Munishwar Nath Bhandari)
Chairman

(V. Anandarajan)
Member

New Delhi,
18.08.2026
'MB'