IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THURSDAY, THE SECOND DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

INCOME TAX TRIBUNAL APPEAL NO: 127 OF 2008

Appeal filed under Section 260A of the Income Tax Act, 1961 against the Order dated 19.01.2007 passed in I.T.A.No. 797/Hyd/2005 for Assessment year 2000-01 on the file of the Income Tax Appellate Tribunal, Hyderabad 'B' Bench(SMC), Hyderabad preferred against the Order dated 17.03.2005 passed in Appeal No. 0226/ITO-10(4)/CIT(A)-VI/2004-05 on the file of the Commissioner of Income Tax (Appeals) – VI, 12th Floor, Gagan Vihar, M.J. Road, Hyderabad – 500001, preferred against the Assessment Order dated 30-11-2004 passed in PAN No. S-799 on the file of the Income-tax Officer, Ward -10(4), Hyderabad.

Between:

Patnala Srinivas, S/o P.S.Rao, R/o 1-11-242/30/7, Begumpet, Hyderabad.

...Appellant

AND

The Income Tax Officer, Ward-10[4] Hyderabad.

...Respondent

Counsel for the Appellant : Mr. A.V.A. Siva Kartikeya

Counsel for the Respondent : Mr. J.V. Prasad, Senior Standing Counsel for Income Tax Department

The Court delivered the following:

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

INCOME TAX TRIBUNAL APPEAL No.127 of 2008

JUDGMENT: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. A.V.A.Siva Kartikeya, learned counsel for the appellant.

Mr. J.V.Prasad, learned Senior Standing Counsel for Income Tax Department for the respondent.

2. This appeal under Section 260A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') has been filed by the assessee. The subject matter of the appeal pertains to assessment year 2000-01. The appeal was admitted on following substantial question of law:

> "Whether the Assessing Officer has rightly invoked Section 69A of the Income Tax Act, 1961 and made an addition of Rs.2,25,000/-, which was the amount returned by the assessee as an agricultural income?"

3. Facts giving rise to filing of this appeal briefly stated are that the assessee is carrying on the business of supplying building construction material. The assessee filed the return of income for the assessment year 2000-01 on 20.05.2002, in which the assessee disclosed his income for business as Rs.82,450/- and agricultural income of Rs.2,25,000/-. The Assessing Officer completed the assessment under Section 143(3) of the Act and determined the income of the assessee at Rs.3,07,450/-. The Assessing Officer by an order dated 30.11.2004 made an addition under Section 69A of the Act of Rs.2,25,000/- as agricultural income.

4. The assessee thereupon filed an appeal before the Commissioner of Income Tax (Appeals)-VI, Hyderabad. The Commissioner of Income Tax (Appeals) by an order dated 17.03.2005, *inter alia* held that no basis has been disclosed by the assessee for his share of income as Rs.2,25,000/-. The Commissioner of Income Tax (Appeals) also took note of the letters dated 23.09.2004 and 28.09.2004 issued by Executive Officer, Hayathnagar Mandal, Ranga Reddy District and Deputy Collector and Mandal Revenue Officer, Hayathnagar

Mandal, Ranga Reddy District respectively and recorded a finding that no crops were grown on the said land and the same was shown as plots in the land revenue records. Accordingly, the appeal was dismissed.

5. Being aggrieved, the assessee filed an appeal before the Income Tax Appellate Tribunal, Hyderabad Bench 'B'. The Income Tax Appellate Tribunal by an order dated 19.01.2007 has affirmed the order passed by the Commissioner of Income Tax (Appeals) and has dismissed the appeal. Hence, this appeal.

6. Learned counsel for the assessee submitted that the Income Tax Appellate Tribunal ought to have appreciated that Section 69A of the Act had no application to the obtaining factual matrix of the case in as much as the assessee had disclosed a sum of Rs.2,25,000/- as his agricultural income. It is further submitted that the Mandal Revenue Officer had given a report for financial year 2001-02 in respect of agricultural income of the assessee and therefore for the previous year, it could not be held that the land in question has already been plotted and no agricultural operation is carried out. Therefore, it is contended that the

finding recorded by the Income Tax Appellate Tribunal is perverse.

7. On the other hand, learned Senior Standing Counsel for the Revenue has submitted that no substantial question of law arises for consideration in this appeal and the matter is concluded against the assessee by findings of fact.

8. We have considered the rival submissions made on both sides and have perused the record.

9. Section 69A of the Act deals with unexplained money. We find substance in the submission made by learned counsel for the assessee that provisions of Section 69A of the Act *per se* may not apply to the case of the assessee. The issue which requires consideration in this appeal is whether the assessee carried out any agricultural operations for the assessment year 2000-01. The Inspector of Income Tax deputed by Assessing Officer for spot enquiry has reported after visiting the land that the same has been marked into plots and is not used for cultivation. The material collected by the Assessing Officer during the course of the enquiry was forwarded to the assessee and his

comments were sought for. However, the assessee did not offer any explanation. The Commissioner of Income Tax (Appeals) has taken into account the letters dated 23.09.2004 and 28.09.2004 issued by Executive Officer, Hayathnagar Mandal, Ranga Reddy District and Deputy Collector and Mandal Revenue Officer, Hayathnagar Mandal, Ranga Reddy District respectively, in which it is stated that no crops were grown on the land and the same was shown as plots in the land revenue records. The Income Tax Appellate Tribunal has also found that the assessee has failed to establish that the land in question was under cultivation. Thus, the authorities under the Act, on the basis of meticulous appreciation of evidence on record have found that the land in question was already plotted and no agricultural operations were carried out by the assessee. Therefore, the claim of agricultural income is not tenable. The aforesaid findings of fact are based on meticulous appreciation of evidence on record and by no stretch of imagination can be said to be perverse. It is well settled in law that this Court in exercise of powers under Section 260A of the Act cannot interfere with the finding of fact until and unless the same is demonstrated to be

perverse. (see **Syeda Rahimunnisa vs. Malan Bi by LRs[1] and Principal Commissioner of Income Tax, Bangalore vs. Softbrands India Private Limited[2]**).

10. In view of preceding analysis, the substantial question of law framed by this Court is answered against the assessee and in favour of the Revenue.

11. In the result, we do not find any merit in the appeal. The same fails and is hereby dismissed.

Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

Sd/- A.V.S.S.C.S.M. SARMA
JOINT REGISTRAR

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SECTION OFFICER

To,

1. The Income Tax Appellate Tribunal, Hyderabad 'B' Bench, Hyderabad.
2. The Commissioner of Income Tax (Appeals) – VI, 12th Floor, Gagan Vihar, M.J. Road, Hyderabad – 500001 Hyderabad
3. The Income-tax Officer, Ward -10(4), Hyderabad
4. One CC to Mr. A.V.A. Siva Kartikeya, Advocate [OPUC]
5. One CC to Mr. J.V. Prasad Senior Standing Counsel for Income Tax Department [OPUC]
6. Two CD Copies

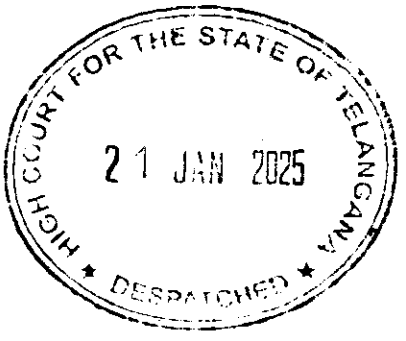
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[1] (2016) 10 SCC 315
[2] (2018) 406 ITR 513

HIGH COURT

DATED:02/01/2025



ORDER

ITTA.No.127 of 2008

DISMISSING THE APPEAL

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