IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

FRIDAY,THE TWENTY EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE SUDDALA CHALAPATHI RAO

INCOME TAX TRIBUNAL APPEAL NO: 272 OF 2008

Appeal filed under section 260A of the Income Tax Act, 1961 against the order dated 08-11-2007 in I.T.A. No. 296 /HYD/01 on the file of the Court of the Income –tax Appellate Tribunal, Bench "B" Hyderabad

Between:

M/s.V.R.Farms Pvt Ltd, O/o.A-28 and 29, IDA., Nacharam, Hyderabad.

...APPELLANT

AND

Deputy Commissioner of Income Tax, O/o.Central Circle-III, Hyderabad.

...RESPONDENT

Counsel for the Appellant: SRI. A. V.A. SIVA KARTIKEYA

Counsel for the Respondent: SRI N. PRAVEEN REDDY (SENIOR SC FOR IT DEPT.

The Court delivered the following Judgment :

THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE SUDDALA CHALAPATHI RAO

Income Tax Tribunal Appeal No.272 of 2008

JUDGMENT : *(per Hon'ble Sri Justice **P.SAM KOSHY**)*

The instant Appeal has been filed by the appellant assailing the order dated 08.11.2007 in I.T.A.No.296/Hyd/01, passed by the Income Tax Appellate Tribunal, Bench 'B', Hyderabad **(for short, 'the impugned order')**.

2. Heard Mr.A.V.A. Siva Kartikeya, learned counsel for the appellant; and Mr.N. Praveen Reddy, learned Senior Standing Counsel for the Income Tax Department, for the respondent-State.

3. *Vide* the impugned order, the Tribunal dismissed the appeal preferred by the appellant herein, while affirming the order passed by the Commissioner of Income Tax (Appeals) dated 29.01.2001 in CIT(A)-V(Central), Hyderabad, who in turn confirmed the Assessment Order dated 30.03.1999 under Section 143(3) of the Income Tax Act, 1961, passed by the assessing officer.

4. The matter pertains to the Assessment Year 1996-97. The entire dispute pertains to an unexplained cash credit found in the books of account of the appellant-Assessee.

5. The brief facts of the case are that, in the course of proceedings the assessing officer had noticed that the appellant-Assessee had claimed to have received unsecured loans from different persons amounting to Rs.58 lakhs during the assessment year 1996-97. Out of the said amount of Rs.58 lakhs, the assessing officer disallowed Rs.10 lakhs said to have been obtained from three persons, i.e., (a) Mr. G. Ramalinga Raju, for an amount of Rs.5 lakhs; (b) Mr. D.V. Krishnam Raju, for an amount of Rs.2.5. lakhs; and (c) Mr.P.V. Krishnam Raju, for an amount of Rs.2.5 lakhs. It was the disallowance of above stated amount of Rs.10 lakhs, against which the instant appeal had been preferred by appellant before the Commissioner of Income Tax, who on verification of records found that there were statements available on record whereby the concerned persons have categorically denied of having given money to the appellant-Assessee. There were also statements which indicated that no confirmation loans were ever signed by the above said individuals. Basing upon these facts, the appeal preferred by the appellant herein had been rejected by the Commissioner of Appeals which was subjected to challenge before the Income Tax Tribunal, at Hyderabad, where the matter stood registered as I.A.No.296/Hyd/01. Vide the impugned order, the appeal finally stood decided against the appellant and in favour of respondent herein.

6. Aggrieved, the instant appeal has been filed by the appellant.

7. Learned counsel for the appellant primarily contended that the Commissioner of Appeals as also the Tribunal were not justified in sustaining the order of assessment passed by the assessing officer whereby a sum of Rs.10 lakhs was treated as unexplained credit in the books of account of the appellant. According to him, the Tribunal had not properly appreciated the fact that the so-called credits received by the appellant were by way of cheques and identity of such creditors also are very much available on record. In addition, it was also contended that each of the creditors have also confirmed payment being made by way of confirmation letters in the course of examination under Section 131 of the Income Tax Act, 1961.

8. Learned counsel for the appellant further contended that the Tribunal as also the Commissioner of Appeals ought to have further examined the denial by the creditors of having signed the confirmation letter and should have also examined that, even the statement which they were relying upon in the course of disallowing the said credit of Rs.10 lakhs was not cogent and strong enough rather was a very vague one. In addition, there was also no disclosure of the details as to who had examined these persons, neither was the appellant-Assessee granted any opportunity to cross-examine the said persons

who had recorded the statement in the course of assessment proceedings; and basing upon these vague statements allegedly recorded by unknown persons with no details available, the disallowance of unsecured credit received by the appellant was erroneous and bad in law and is also liable to be interdicted with; and therefore, prayed that the appeal be dismissed by setting aside the impugned order and to further hold that the appellant is duly entitled for allowing of unsecured credits.

9. *Per contra,* learned Standing Counsel for the respondent-Department, opposing the appeal, contended that a bare perusal of the findings given by the Assessing Officer and the findings given by the Commissioner of Appeals and also by the learned Tribunal, would give a clear indication of there being a consistent and concurrent finding of fact. He further contended that all the authorities have categorically made a statement as to there being no strong material brought on record by the appellant so as to disbelieve the statements recorded in the course of assessment proceedings, more particularly in respect of the categorical denial by the so-called creditors of having not issued any confirmation letter so far as having given certain loan to the appellant. Apart from the confirmation letter relied upon by the learned counsel for the appellant, there does not also seem to be any substantive cogent material produced by the appellant to rebut the

stand of respondent-Department. Therefore, for all these reasons, learned Standing Counsel for the respondent-Department, prayed for rejection of the appeal.

10. Having heard the contentions put forth on either side and on a perusal of the record, and also going through the findings given by the Tribunal as also by the Commissioner of Appeals, we find sufficient force in the argument of learned Standing Counsel for the respondent-Department that there is a consistent and concurrent finding of fact in respect of disallowance of unexplained cash credit of Rs.10 lakhs which is reflected in the books of account of the appellant. Further, what is also evident is the fact that though the appellant had tried to support his contention by producing confirmation letter in respect of the three unsecured credits, but what weighed in the minds of authorities was that in the course of arguments, the so-called creditors who had advanced loan to the appellant have denied issuance of confirmation letters by them and they have also denied signatures affixed thereon. Further, there was also no strong material to disbelieve the statement of creditors who have deposed before the assessing officer of having not given any money to the appellant or having signed the confirmation letters. True it is that there does not seem to be any details available so far as the statement that was recorded or at least who had recorded such statement, but that by

itself is not sufficient to draw an inference and disbelieve the version of the assessing officer and also that of the Commissioner of Appeals, which fact had also been accepted by the Tribunal. The finding given by the Tribunal in the course of confirming the order passed by the appellate authority gives a clear indication that the entire finding given by the authorities below is a pure finding of fact.

11. For all the aforesaid reasons, this Bench is of the considered view that no strong case has been made out by the learned counsel for the appellant in the course of challenging the impugned order. Accordingly, the substantial question of law stands answered in favour of the respondent-Department and against the appellant-Assessee, by holding that the authorities below were justified in holding the addition of Rs.10 lakhs is an unexplained cash credit being not proved by the appellant herein. The appeal accordingly stands dismissed. No costs.

12. As a sequel, miscellaneous petitions, pending if any, shall stand closed.

Sd/- A.V.S. PRASAD
DEPUTY REGISTRAR

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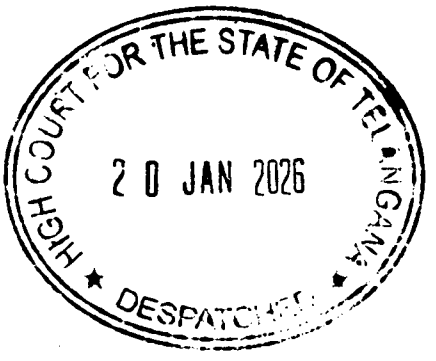
SECTION OFFICER

To

1. The Income –tax Appellate Tribunal, Hyderabad, Bench "B" Hyderabad
2. One CC to SRI. A. V. KRISHNA KOUNDINYA, Advocate [OPUC]
3. One CC to SRI. N. PRAVEEN REDDY (SENIOR SC FOR IT DEPT) Advocate [OPUC]
4. Two CD Copies

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HIGH COURT
DATED:28/11/2025



JUDGMENT

ITTA.No.272 of 2008

DISMISSING THE ITTA WITHOUT COSTS

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