

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLR SRI JUSTICE M.SATYANARAYANA MURTHY

I.T.T.A.NO.298 OF 2015

JUDGMENT: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

This appeal, under Section 260A of the Income Tax Act, 1961 ("the Act" for brevity), is preferred by the Revenue against the order passed by the Income Tax Appellate Tribunal, Hyderabad (Tribunal), in I.T.A.No.227/Hyd/2013 dated 03.01.2014.

ITA.No.227 of 2013 was filed by the Revenue aggrieved by the order of the CIT (Appeals) holding that the cash credits in the books of accounts of the partnership firm could not be held to be unexplained as the partners had admitted to having invested the said amounts in the firm. In the order under appeal, the Tribunal held that, from out of eight partners who had invested Rs.22.5 lakhs for the assessment year 2005-06 and Rs.37,46,000/- for the assessment year 2007-08, three partners were staying in the USA whose source of funds had been explained; the other five partners were assessed to tax in the same jurisdiction of the Assessing Officer; as seen from the records they appeared to have filing returns; on the facts of the case, there was no need to make addition in the hands of the firm, when all the partners had owned up to the funds, and had explained the credits; as far as the firm was concerned, the credits were from identified persons who had filed confirmation letters, and had shown the investment in their personal returns; treating the investment made by the partners, as unexplained was not proper; if the Assessing Officer had any doubt about the source of funds of the partners, he should have caused enquiries in the hands of the individual partners; as far as the firm was concerned, the credits in the accounts stood explained as the amounts were invested by the partners who had accepted the investments; and the source could, therefore, not be considered in the hands of the assessee. The appeal was dismissed.

The finding arrived at by the Tribunal, is that the cash credits in the books of accounts of the partnership firm could not be treated as unexplained since the partners were identified and while three of the partners who were staying in the USA

had explained their source of funds, the other five, who were assesseees in the jurisdiction of the very same Assessing Officer, have been filing their returns. If the source of funds by each of the partners is not explained by them, these credits must be treated as unexplained in their hands, and not in the hands of the partnership firm. The finding recorded by the Tribunal, in the order under appeal, is neither perverse nor is it based on no evidence. No question of law, much less a substantial question of law, arises for consideration in this appeal necessitating interference under Section 260A of the Act.

The appeal is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

5th November 2015

RRB