**THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN**
**AND**
**THE HON'BLE MS. JUSTICE J. UMA DEVI**

**I.T.T.A.Nos. 54 and 55 of 2017**

**COMMON JUDGMENT:** ***(Per VRS,J)***

The assessee has come up with these appeals under Section 260A of the Income Tax Act, 1961.

2. Heard Mr. A.V. Raghuram, learned counsel for the appellant. Mr. B. Narasimha Sarma, learned senior standing counsel for the Income Tax Department, takes notice for the respondent.

3. The appellant/assessee is a partner in a finance Company. He filed his return of income for the assessment year 2007-2008 on 18.02.2008, admitting an income of Rs.1,55,089/-.

4. A survey operation under Section 133A was conducted in the case of a partner of a construction Company. During the course of survey in the premises of the partner of the construction Company, a copy of an agreement of sale, dated 18.11.2006, was found. As per the said agreement, the appellant in these appeals and three others entered into an agreement for the purchase of Acs.56.24 guntas of land in Bogaram Village, Keesara Mandal, R.R. District, from one Mr. Rama Sunder Reddy and others, at the rate of Rs.32.00 lakhs per acre. An amount of Rs.3.9 crores had been paid as an advance as on 18.11.2006.

5. As on the date of the survey, the appellant and others had paid an amount of Rs.4.9 crores. The appellant sought to explain his share of Rs.1,22,50,000/-, out of the said payment of Rs.4.9 crores, by claiming that he invested his own funds to the tune of Rs.5.00 lakhs, and that he also had funds from seven other persons, by name, Mr. S. Ram Reddy, Mr. K. Raghunath Reddy, Mr. D. Satyanarayana Rao, Mr. A. Narasimha Reddy, Mr. A. Buchi Reddy, Mr. P. Buchi Reddy and Mr. P. Pandu.

6. The Assessing Officer accepted the appellant's contribution of Rs.5.00 lakhs, but treated the balance of Rs.1,17,50,000/- allegedly received from seven other persons, as unexplained investment. Apart from this, the Assessing Officer also brought an amount of Rs.25.00 lakhs to tax in the hands of the appellant, on the basis of certain receipts impounded during the course of survey operation. In other words, the Assessing Officer came to the conclusion that the appellant and others had paid a total amount of Rs.5.9 crores and not Rs.4.9 crores as claimed by them.

7. The appeal filed by the assessee/appellant was partly allowed by the CIT (Appeals). The assessee as well as the Department filed appeals before the I.T.A.T. The I.T.A.T. allowed the appeal of the Department and dismissed the appeal of the assessee. Therefore, the assessee is before us in these two appeals.

8. The main ground of attack to the order of the Tribunal is that a paper-book filed by the appellant containing the depositions of all

those seven persons, from whom the appellant received money, was not at all considered by the Tribunal. Drawing our attention to the depositions of those seven witnesses, it is contended by Mr. A.V. Raghu Ram, learned counsel for the appellant, that instead of looking at the oral evidence, in the light of the documents produced by those seven witnesses, the authorities including the Tribunal extracted a few portions convenient to the conclusions eventually reached and that, therefore, the order of the Tribunal was perverse.

9. We have carefully considered the above submissions.

10. In Paragraph Nos.11 and 14 of the impugned order, the Tribunal has analyzed the oral evidence of those seven persons. The Tribunal found it hard to believe that all those seven persons at about the same time received the sale proceeds and invested the same in cash with the appellant. Therefore, it was a question of appreciation of evidence, and no question of law arises for our consideration under Section 260A. Hence, both the appeals are dismissed.

Consequently, miscellaneous petitions if any pending in the appeals shall stand dismissed. There shall be no order as to costs.

**V. RAMASUBRAMANIAN, J**

**J. UMA DEVI, J.**

13th April, 2017
cbs

**THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN √**

***AND***

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*(dismissed)*

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