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TCA No.114 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2025

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

TCA No.114 of 2025

The Commissioner of Income Tax,
Central Circle – 3(4),
Chennai.

.. Appellant

Vs.

Pandit Vettrivel,
B-272, Ground Floor, B-Block,
Rear Flat, Greater Kailash Part I,
New Delhi-110 048
PAN: AJZPP4861G

.. Respondent

Prayer: Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of Income Tax Appellate Tribunal, “B” Bench, Chennai, dated 22.09.2023 passed in I.T.A No.146/Chny/2020.

For Appellant: Mr.Karthik Ranganathan

For Respondent: Mr.N.V.Balaji



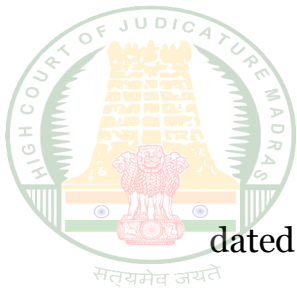
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JUDGMENT
(Delivered by the Hon'ble Chief Justice)

Revenue has filed this appeal under Section 260A of the Income-tax Act, 1961 (the Act) aggrieved by an order dated 22.9.2023 passed by the Income Tax Appellate Tribunal (ITAT) allowing the appeal of assessee (respondent herein).

2. Assessee, an individual, was earning a living as an astrologer. The original return of income was filed on 2.8.2007 reporting a total income of Rs.17,98,611/-. A search under Section 132 of the Act was conducted on 23.8.2007. Following this, an assessment dated 14.12.2009 was made under Section 153A read with Section 144 of the Act, which determined the total income of Rs.11,90,90,658/-. Assessee carried the matter in appeal to the Commissioner of Income Tax (Appeals) (CIT(A)), who dismissed the appeal and confirmed the finding of the Assessing Officer. Assailing the said order, assessee preferred an appeal before the ITAT, which by order



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dated 18.12.2015, set aside the assessment order and remanded the matter for fresh adjudication.

3. A fresh assessment order dated 30.12.2016 under Section 143(3) read with Section 153A read with Section 254 of the Act was issued determining the total income at Rs.11,95,35,658/- by making certain additions. This was carried in appeal by assessee and the CIT(A), vide an order dated 27.9.2019, dismissed the appeal. Assessee carried this in appeal before the ITAT, which, by the impugned order dated 22.9.2023, allowed the appeal. The ITAT deleted the addition towards profit on sale of land amounting to Rs.6,56,03,940/- and also the addition towards agricultural income amounting to Rs.4,25,140/-.

4. Against the said order, this appeal is preferred and the following substantial questions of law have been proposed:

- (1) *Whether in the facts and circumstances of the case, the ITAT has erred in holding that the impugned land is agricultural in nature merely because it is recorded as such in the revenue records, without appreciating the material evidence and facts on record?*
- (2) *Whether the ITAT has failed to consider the ratio of the Apex*



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Court decision in the case of Sarifabibi Mohammed Ibrahim and others v. CIT, (1993) 204 ITR 631 in this regard?

- (3) Whether the ITAT erred in not considering that the very fact that the land is sold to a non-agriculturist and to be used for non-agricultural activity is a factor germane to the determination of the issue as held by the Bombay High Court in the case of Gopal C.Sharma v. CIT, (1994) 209 ITR 946 (Bom)?*
- (4) Whether the ITAT erred in holding that the transaction cannot be considered as 'adventure in the nature of trade' without considering the Supreme Court decision in the case of G.Venkatswamy Naidu v. CIT (1959) 35 ITR 594 in which it is held that even an isolated and single transaction may be of an adventure in nature of trade if some of essential features of trade are present in such a transaction and in the instant case the intention to make profit is very much evident?*
- (5) Whether the ITAT erred in law in not considering that abnormally high sale consideration is also a factor determinative of the issue whether the land is agricultural or not as held by the Supreme Court in the case of Sarifabibi Mohammed Ibrahim and others v. CIT (1993) 204 ITR 631?*
- (6) Whether the ITAT erred in deleting the addition made by disallowing the agricultural income claimed by the assessee without appreciating that the assessee has not produced any evidence for earning agricultural income?"*

5. In our view, the entire finding of the ITAT has been based on factual evidence available before the ITAT. Assessee had acquired certain parcel of land at Changapalli in Erode District during financial year 2005-2006. Assessing Officer alleged that assessee paid money while purchasing the said land and made addition of unexplained investment for assessment year 2006-2007. According to Assessing Officer, the land was barren land



and the irrigation was only through seasonal rains and wells and depending on the quantum of seasonal rains, the wells hold water for some period only. Due to this, Assessing Officer observed that the land could not be used for raising any crops or trees. Assessing Officer even summoned the Village Administrative Officer and arrived at a finding that no crops were grown except on a small area, where corn was grown. Assessing Officer rejected assessee's stand that the land was agricultural land.

6. Assessee, however, produced the land revenue records as also letter from the Tahsildar to substantiate his stand that the income was to be accepted as agricultural income and the land was classified as agricultural land and, hence, exemption cannot be denied. He also submitted that the manner in which adjacent lands were used would not be a ground to come to a conclusion that assessee's land was not agricultural in nature.

7. Assessing Officer rejected the submissions and held that the land was purchased with an intention to resell and after elaborately discussing the so-called business potential of the area where the land was situated went on to hold that the entire transaction was to be regarded as an

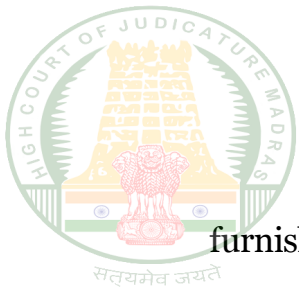


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adventure in the nature of trade and, therefore, assessed the income for assessment year 2007-2008 as business income. The claim of exemption of long-term capital gain was also rejected and profit on sale of land was brought to tax as business income. Agricultural income of Rs.4.25 lakh, as reflected by assessee, was also brought to tax under Section 68 of the Act. He also added Rs.4.45 lakh cash deposit as unexplained cash credit under Section 68 of the Act.

8. The CIT (A) confirmed the aforesaid findings.

9. The ITAT, however, accepted the stand of assessee based on evidence presented before it, which evidence Assessing Officer or the CIT(A) had not considered. The ITAT rightly accepted the fact that the land has always been classified as agricultural land in revenue records; the land was situated 8 kms from nearest municipality; as per the revenue records, agricultural activities were being carried out on the said land; and the intention of the purchase of the land would be immaterial. Assessee, in addition, has also produced Electricity Board receipts, which shows that assessee has been granted subsidy on electricity charges. Assessee has also



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furnished land test report mentioning soil content and nature of crop which could be grown on the land. The ITAT also considered the fact that Kengayapalayam Village has population of less than 1600 and the patta shows that the land has been classified as “Punjai” wet land. Agricultural income receipts and ploughing expense receipts have also been placed on record. The list of documentary evidence produced has also been listed in the impugned order.

10. None of the lower authorities has placed on record any document to rebut the evidence placed on record by assessee, but they have proceeded on the reasoning that the area where the land was situated had commercial potential and, hence, have assumed that the land was acquired as a part of real-estate business to reap the benefits of commercialisation.

11. Upon perusal of the documents, the ITAT has arrived at a factual finding that assessee has fairly established that the land was agricultural land and revenue has failed to rebut the documentary evidence and bring on record adverse material to prove that the land was not classified as agricultural land.



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WEB COPY 12. In the circumstances, we find no reason to interfere with the order passed by the ITAT and, hence, no substantial question of law will arise.

Appeal is dismissed. There shall be no order as to costs.

(K.R.SHRIRAM, C.J.)

(SUNDER MOHAN, J.)

24.06.2025

Index : Yes/No
Neutral Citation : Yes/No
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To:

1. The Assistant Registrar
Income Tax Appellate Tribunal
Chennai Benches, Chennai.
2. The Commissioner of Income Tax (Appeals)-19,
Chennai-600 034.
3. The Assistant Commissioner of Income Tax,
Central Circle 3(4)
Chennai-600 034.



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THE HON'BLE CHIEF JUSTICE
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