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TCA Nos 567 & 568 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 01-12-2025**

CORAM

**THE HON'BLE DR.JUSTICE ANITA SUMANTH**

**AND**

**THE HON'BLE MR.JUSTICE P. DHANABAL**

**TCA Nos. 567 & 568 of 2010**

**AND M.P.No.2 of 2010**

Vakada Appa Rao  
C/o V.Narayanam & Co,  
23, Sir C.V.Raman Road, Alwarpet,  
Chennai - 600 018.

..Appellant(s)

Vs

The Assistant Commissioner  
Of Income Tax, Central Circle Iv (3), Chennai.

..Respondent(s)

**TCA No. 568 of 2010**

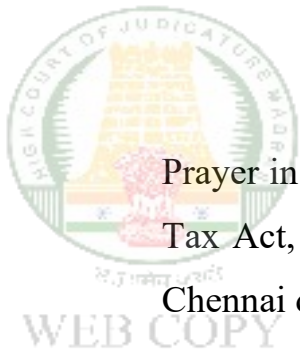
Shri Vakada Appa Rao  
Plot No.178, Flat No.508, Mothi Nagar,  
Venkateswara Arcade, Hyderabad.

..Appellant(s)

Vs

The Deputy Commissioner Of  
Income Tax, Central Circle IV (3) No.108  
N.H.Road, Chennai - 600 034.

..Respondent(s)



Prayer in TCA.No.567 of 2010: Appeal filed under Section 260A of the Income Tax Act, 1961 against order of the Income Tax Appellate Tribunal, 'C' Bench, Chennai dated 12.09.2008 in I.T.(SS)A.No.0136/Mds/2006.

Prayer in TCA.No.568 of 2010: Appeal filed under Section 260A of the Income Tax Act, 1961 against order of the Income Tax Appellate Tribunal, 'C' Bench, Chennai dated 12.09.2008 in I.T.(SS)A.No.0175/Mds/2006.

**(In both TCAs)**

For Appellant(s): Mr.C.J.Yeswanthram  
for Mr.K.Vaitheeswaran

For Respondent(s): Mr.Karthik Ranganathan  
Senior Standing Counsel

**COMMON JUDGMENT**

**(Judgment of the Court was delivered by Dr.Anita Sumanth J.)**

These appeals have been filed by the assessee challenging the order of the Income Tax Appellate Tribunal (in short 'ITAT'/'Tribunal') dated 12.09.2008 for the block period 01.04.1996 to 27.06.2002 passed in terms of the provisions of the Income Tax Act, 1961 (in short 'Act').

2. Five questions were raised by the assessee originally and three were rejected even at the time of admission. Two were admitted for consideration and read as follows:



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*'c. Whether on the facts and circumstances of the case, the Tribunal is right in law in holding that the assess has not maintained proper books of accounts and not complied with the provisions of section 9(b) ?*

*d. Whether on the facts and circumstances of the case, the Tribunal is right in law in holding that the loss claimed by the appellant was not liable to be allowed despite the books of accounts being produced. They ought to have seen that the Commissioner of Income Tax (Appeals) had clearly held that the appellant had all basic documents and vouchers, though to maintained book of accounts?'*

3. Mr.C.J.Yeswanthram, learned counsel for Mr.K.Vaitheeswaran, learned counsel for the appellant makes the following submissions. A search under Section 132 of the Act had been conducted by the Assessing Officer between 27.06.2002 and 12.08.2002 (erroneously stated as 12.08.2004 in the order of assessment). The block assessment under Section 158 BC read with Section 143(3) of the Act came to be completed on 31.08.2004 on the basis of various evidences found in the course of search to the effect that the appellant had understated the income relating to the block period. Admittedly, no books of accounts had been maintained by the assessee and no regular returns of income had been filed. Hence the question of completing regular assessments does not arise in the present case.

4. The sole issue with which we are concerned in these appeals relates to certain expenditures that had been claimed by the assessee, which came to be disallowed in toto by the Assessing Officer on the ground that no books of



accounts had been maintained and applying the provisions of Rule 9B (3), (4) and (5) of the Income Tax Rules, 1962 (in short 'Rules').

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5. As against the same, the assessee moved the first appellate authority, who was of the view that the appellant was entitled to a set-off of the loss as against the theatre collections for that year, based on the evidences produced before the Commissioner of Income Tax (Appeals) (in short 'CIT(A)'). Essentially, the CIT(A) has gone on the basis of the bank statements, concluding that such statements would suffice even in the absence of the books of accounts. The CIT(A) had arrived at the tabulation of the net loss in the following manner:

| <i>Particulars</i>                        | <i>Amount</i>      | <i>Amount</i>      |
|-------------------------------------------|--------------------|--------------------|
| <i>By theatre collections</i>             | <i>1,28,730.00</i> |                    |
| <i>to picture outright and lease paid</i> |                    | <i>7,25,000.00</i> |
| <i>to publicity expenses</i>              |                    | <i>14,275.00</i>   |
| <i>To representative salaries</i>         |                    | <i>6,500.00</i>    |
| <i>To printing and stationery</i>         |                    | <i>1,075.00</i>    |
| <i>To traveling expenses</i>              |                    | <i>860.00</i>      |
| <i>To telephone charges</i>               |                    | <i>375.00</i>      |
| <i>To telephone charges</i>               | <i>6,19,355.00</i> |                    |
| <i>By net loss transferred to capital</i> | <i>7,48,085.00</i> |                    |



6. As against the aforesaid order of the CIT(A) dated 19.04.2006, cross appeals were filed by both the assessee and Revenue before the Tribunal, and the Revenue's appeal came to be allowed in full, restoring the order of the Assessing Authority. The discussion of the Tribunal is to the effect that Rule 9B, which requires maintenance of books of accounts, is mandatory.

7. Learned counsel for the appellant would submit that in a case where other evidences were available to support the expenses incurred, particularly clinching evidence such as bank statements as in the present case, it was not necessary to go strictly by the provisions of Rule 9B and it would suffice that this evidence may be taken into account by the authorities.

8. Per contra, Mr.Karthik Ranganathan, learned Senior Standing Counsel for the Department, would submit that Rule 9B casts a mandate upon the assessee to maintain books of accounts which cannot be disavowed. In the present case, it is admitted that the assessee had not maintained books of accounts and hence, there is absolutely no avenue to take a lenient view of the matter.

9. Having heard both learned counsel, we are of the considered view that the Revenue must succeed. Rule 9B, particularly sub-Rule (5) is categoric to the effect that the computation of income in order to arrive at the income earned by a film distribution company, must be based on its books of accounts.



10. For ready reference, we extract below the provisions of Rule 9B, to the extent to which it is relevant for this matter:

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**Deduction in respect of expenditure on acquisition of distribution rights of feature films.**

*9B. (1) In computing the profits and gains of the business of distribution of feature films carried on by a person (the person carrying on such business hereafter in this rule referred to as film distributor), the deduction in respect of the cost of acquisition of a feature film shall be allowed in accordance with sub-rule (2) to sub-rule (4).*

.....

*(5) Notwithstanding anything contained in the foregoing provisions of this rule, the deduction under this rule shall not be allowed unless-*

*(a) in a case where the film distributor,-*

*(i) has himself exhibited the feature film on a commercial basis; or*

*(ii) has sold the rights of exhibition of the feature film; or*

*(iii) has himself exhibited the feature film on a commercial basis in some areas and has sold the rights of exhibition of the feature film in respect of all or some of the remaining areas,*

*the amount realised by exhibiting the film, or the amount for which the rights of exhibition have been sold, or, as the case may be, the aggregate of such amounts, is credited in the books of account maintained by him in respect of the year in which the deduction is admissible;*

*(b) in a case where the film distributor has transferred the rights of exhibition of the feature film on a minimum guarantee basis, the minimum amount guaranteed and the amount, if any, received or due in excess of the guaranteed amount, or where the film distributor follows cash system of accounting, the amount received towards the minimum guarantee and the amount, if any, received in excess of the guaranteed amount, are credited in the books of account*



*maintained by him in respect of the year in which the deduction is admissible.'*

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11. A reading of the above makes it clear that the computation of income of a film distribution company must be based on Rule 9B(5), where sub-clause (i), (ii) and (iii) of clause (a) are governed by the condition under clause (a) relating to the maintenance of books of accounts. Hence, in a case where the assessee has admittedly not maintained books of accounts, there is no question of proceeding on the basis of other evidences that might be available to assist in the computation of income. Such evidences can at best, supplement the computation of income but cannot substitute the book of account in full.

12. In light of the discussion as above, the questions of law are answered in the affirmative and in favour of the Revenue. These Tax Case (Appeals) are dismissed. No costs. Connected Miscellaneous Petition is closed.

**(A.S.M.,J.) (P.D.B.,J.)**

**01-12-2025**

Index: Yes  
Speaking order  
Neutral Citation: Yes  
SI



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**DR.ANITA SUMANTH J.**

**AND**

**P.DHANABAL J.**

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To

- 1.The Assistant Commissioner  
Of Income Tax, Central Circle Iv (3), Chennai.
- 2.The Deputy Commissioner Of  
Income Tax, Central Circle Iv (3) No.108  
N.H.Road, Chennai - 600 034.

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