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TCA No. 31 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2026

CORAM

THE HON'BLE DR JUSTICE G. JAYACHANDRAN

AND

THE HON'BLE MR.JUSTICE SHAMIM AHMED

Tax CaseAppeal No. 31 of 2013

M/s Pallava Resorts P Ltd
Rain Tree Place, Ground Floor,
McNichols Road, Chetput,
Chennai-600 031.

..Appellant

Vs

The Deputy Commissioner of Income Tax,
Company Circle V(1),
Chennai.

..Respondent

PRAYER: Tax Case (Appeal) is filed under Section 260A of the Income-Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Chennai “B” Bench, dated 11.10.2012 in ITA No.794/Mds/2011 for the Assessment Year 2008-09.

For Appellant: Mr. A.S. Sriraman For M/s.S.Sridhar

For Respondent: Mrs.V.Pushpa
Senior Standing Counsel
For Sole Respondent

JUDGMENT

(Judgment of the Court was delivered by Dr.G.Jayachandran J.)

The appellant herein is a private limited company incorporated under the Companies Act in 2005. The main object of the company is to carry on the



business running hotels, holiday resorts, motels, clubs, conference hall, cinema hall and etc. Ancillary to the main objects, the company is involved in media advisory services, liaising, printing, publishing, production of cinematographic films. Additionally, to lend and advance money, either with or without security, to firms or body corporate as per the terms and conditions deemed fit by the company.

2. Furthermore, the company carries on business in India and elsewhere as planters, growers, producers, curers, manufacturers, merchants and exporters of coffee, tea, rice, cardamom, cinchona, rubber, pepper, oranges and other fruits and vegetables and all other agricultural produce.

3. The appellant purchased an extent of 20.068 acres in Village No.162, Mamallapuram Village, Chengalpattu Taluk, Chengalpattu District through a sale deed dated 23.11.2005. The appellant subsequently sold this property in 2008. The Income Tax Department has raised a claim for capital gains tax against the assessee in respect of the sale of this land. Whereas the assessee has consistently contended that the land was purchased, held and sold as agricultural land and therefore, there cannot be any tax on the capital gains.

4. In the assessment order dated 30.12.2010, the Assessing Officer (AO) charged tax on the capital gains derived from the sale. The AO held that



the assessee failed to provide details of agricultural returns or produce proof of any agricultural activities or income derived from the land during the previous year and it is vexatious attempt to claim exemption under Section 14 of the Income Tax Act. As these receipts were credited to the Profit and Loss account, they were assessed as taxable income.

5. The appeal preferred by the assessee before the Commissioner of Income Tax (Appeals V) was partly allowed to the extent that the property was purchased along with casuarina trees situated thereon. A portion of these trees was sold for Rs.2,08,350/- during the previous year (i.e., Assessment Year 2007-08) and the same has been reflected in the auditor's Profit and Loss account for the year ending 31.03.2007. Therefore, the income related to the sale of casuarina trees amounting to 2,08,350/-, being income from agricultural land, was deleted from the assessment. The Appellate Authority confirmed the rest of the assessment. Subsequently, a further appeal filed by the assessee (I.T.A.No.794/Mds/2011) and a cross -appeal filed by the Department (I.T.A.No.1261/Ads/2011) were disposed of by the Income Tax Appellate Tribunal by a common order dated 11.10.2012.

6. The Tribunal arrived at conclusion as below:-

“27. When all these facts are taken into consideration as a whole, we find that the property purchased and sold by



the assessee was commercial property, non agricultural in nature. The property cannot be considered as an agricultural property only for the reason that there was a casual plantation of casuarina trees. The certificates issues by the concerned Revenue authorities are of no use in the present case.

28. Therefore, we confirm the findings of the lower authorities on this point and hold that the property sold by the assessee was non agricultural property. Short-term capital gains tax has been levied in accordance with law.”

7. Regarding the addition of Rs.5,61,86,557/- confirmed by the Commissioner of Income Tax (Appeal) as deemed dividend, the Tribunal held the same is not justifiable and held in favour of the assessee. Against the order of the Tribunal, both the assessee as well as the Revenue preferred appeals. However, the appeal of the Revenue later came to be dismissed in view of the Central Board of Direct Taxes (CBDT) Circular No.9 of 2024 on the ground of low tax effect.

8. The present appeal by the assessee was admitted for considering the following substantial questions of law:-

“1. In the light of the constitutional limitation in respect of taxation of agricultural income and agricultural land, whether the Appellate Tribunal was justified in upholding liability on consideration other than the one,



whether the lands are agricultural in character?

*2. Whether the Appellate Tribunal could have proceeded to deal with appellate order in an assessment order which was bad in law in view of the decision of the jurisdictional High Court in **N.Meenakshi V. Asst. CIT reported in (2010) 326 ITR 229 (Mad)**?*

3. Whether the Appellate Tribunal was justified in law in ignoring the report of the Village Administrative Officer, the District Valuation Officer and the photographs indicating casuarina plantation in the land as well as purchase and sale deeds and agricultural income disclosed by the appellant in its book and returned in the income-tax return as income from such lands?"

9. The learned counsel appearing for the appellant submitted that the Tribunal erred in ignoring the revenue records produced by the assessee to establish that the agricultural land purchased and retained its character as agricultural land till it was sold. The Tribunal and the Department, for reasons best known to them, totally ignored the Patta, Adangal and photographs evidencing the existence of casuarina trees and an irrigation well in the property. Having considered the income derived from the sale of casuarina trees during the previous year and having allowed a deduction for the same, the Tribunal, contrary to the admitted facts, concluded that no agricultural activity was carried on by the assessee and that no income had disclosed as agricultural income in the previous year returns.



10. The learned counsel for the appellant further submitted that the adjacent landowner, Sakunthala Vedachalam, was similarly assessed for capital gains. She challenged the said assessment. A Coordinate Bench of this Court in *Sakunthala Vedachalam Vs. ACIT, Business Circle XIV, Chennai* reported in *[2015] 53 taxmann.com 62 (Madras)* held in favour of the assessee. While so, there cannot be a different treatment for the present appellant/assessee in light of this precedent.

11. The learned counsel further submitted that the land was purchased in the year 2005 and subsequently sold in 2008 as agricultural land. It continues to be classified as agricultural land in the revenue records and the agricultural activities are still carried on in the said land has also been reflected in the latest Encumbrance Certificate issued for the respective survey numbers.

12. Per contra, the learned Standing Counsel appearing for the Department submitted that the concurrent factual findings of the Tribunal as well as the Appellate Authority cannot be interfered under Section 260A of the Act. She further submitted that the evidence of Village Administrative Officer (VAO) as well as the guideline value issued by the Sub-Registrar Office (SRO) reveals that the subject land is classified as Government waste land.



13. Her further submission is that to qualify as agricultural land under Section 2(14) of the Income Tax Act, the land must satisfy the parameters laid down therein. In this case, the assessee failed to prove or satisfy those parameters. The land is situated within the Special Grade Panchayat limit and has been classified as an Entertainment Corridor, since it is very near to Mamallapuram and the Bay of Bengal. It has lost the character of an agricultural land both on facts as well as in law.

14. After the constitutional amendment and the introduction of Article 243Q, the location of the subject property falls within the District Municipalities Act. Sufficient evidence has been collected to show that the revenue division in which the land situated has a human population of more than 10,000. Therefore, having failed to satisfy the parameters laid down under Section 2(14)(iii) of the Act, the assessee is liable to pay capital gains tax.

15. We have given our deep consideration to the forceful submissions made by both sides. At the outset, we must record that the classification of land and the revenue derived therefrom is an exclusive prerogative of the State, as per the Seventh Schedule, List II, Entry 45 of the Constitution:

16. It is pertinent to note that Constitution has placed the taxation of agricultural income derived from such land within the exclusive domain of the



State. Whereas, for the purpose of computation of income tax on capital gains, the Central Act (namely the Income Tax Act, 1961) defines “agricultural land” as follows:-

2(14) (iii) agricultural land in India, not being land situate

—
(a) in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee, or by any other name) or a cantonment board and which has a population of not less than ten thousand;

17. However, when this provision was tested with the factual material, a Coordinate Bench of this Court, in a case involving the neighbouring land, concluded that when there is unassailable evidence to show that the subject land is classified as agricultural land in the revenue records and that agricultural activities were carried on the said land, such land has to be exempted from the definition of a ‘capital asset’ for the purpose of imposing capital gains tax.

18. In the present case, the reasoning given by the Tribunal is based on its subjective perception of facts and assumptions. Disregarding the revenue records which shows the land as agricultural land, the Appellate Authority and the Tribunal had substituted their own views, relying on certain entries in the guideline values issued by the Registration Department. First we should record



that those survey numbers which are classified as Government waste land, are not related to survey numbers of the subject land. Furthermore, the guideline value issued by the Registration Department is in respect of valuation for the purpose of collecting stamp duty. To know about the classification of a land, the records and registers maintained by the Revenue Department will prevail over other records.

19. Furthermore, when classification of land is the exclusive prerogative of the State under the Constitution of India, a Central Act cannot transgress into the domain of the State by providing different definition of ‘agricultural land’ for the purpose of collecting income tax. Therefore, for the first substantial questions of law is framed as follows:-

“1. In the light of the constitutional limitation in respect of taxation of agricultural income and agricultural land, whether the Appellate Tribunal was justified in upholding liability on consideration other than the one, whether the lands are agricultural in character?”

We hold that the interpretation of the Tribunal is contrary to the facts as well as to the constitution. Hence, the first substantial questions of law is answered in favour of the assessee.

20. Regarding the second substantial questions of law, which reads as below:-



*“2. Whether the Appellate Tribunal could have proceeded to deal with appellate order in an assessment order which was bad in law in view of the decision of the jurisdictional High Court in **N.Meenakshi V. Asst. CIT reported in (2010) 326 ITR 229 (Mad)**?”*

In our view, the Appellate Tribunal is empowered to revisit the orders of the Assessing Officer as well as the first Appellate Authority. As the final forum for deciding the questions of facts as well as law, it is the Tribunal's duty to test questions of fact. Therefore, we do not find any error in the Appellate Tribunal entertaining the appeals by the assessee as well as the Revenue. However, we find that the reasoning of the Tribunal in this instant case is contrary to Constitutional provisions and in disregard to the established facts and evidence borne on record. This question is answered accordingly.

21. The third substantial questions of law is reads as below:-

“3. Whether the Appellate Tribunal was justified in law in ignoring the report of the Village Administrative Officer, the District Valuation Officer and the photographs indicating casuarina plantation in the land as well as purchase and sale deeds and agricultural income disclosed by the appellant in its book and returned in the income-tax return as income from such lands?”



In the preceding paragraphs of our judgment, we have addressed this. We find that the Appellate Authority committed a grave factual error bordering on perversity and failed to properly appreciate the evidence. As a consequence, we hold this issue in favour of the assessee.

22. As a result, this Tax Case Appeal is allowed. No costs.

(G.J.,J.) (S.S.A.,J.)
25-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

The Deputy Commissioner of Income Tax,
Company Circle V(1),
Chennai.



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**DR.G.JAYACHANDRAN J.
and
SHAMIM AHMED J.**

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