

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY, THE TWENTY EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO**

INCOME TAX TRIBUNAL APPEAL NO: 545 OF 2006

Income tax Tribunal Appeal under Section 260-A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Hyderabad Bench, Hyderabad in ITA No. 594 / H/ 99 for Assessment Year 1995 -96 dated 30-11-2005 preferred against the order of the Commissioner of Income Tax (Appeals), IV, Hyderabad dated 01-06-1999 in ITA No. 1175 /JC SR 5 / CIT (A) / 98-99 preferred against the order of the Joint Commissioner of Income tax, (Assts) Special Range-5, Hyderabad , dated 13-11-1998 in GIR No. V-/4/SR-5 .

Between:

Venkateswara Hatcheries Ltd, Hyderabad with its Regd. Office Venkateswara House, Hyderabad.

...APPELLANT

AND

Joint Commissioner of I.T.[Assts.], Special Range -5, Hyderabad.

...RESPONDENT

**Counsel for the Appellant: SRI. Y. KOTESWARA RAO, COUNSEL
REPRESENTING SRI Y. RATNAKAR**

**Counsel for the Respondent: Ms. K. MAMATA CHOUDARY, SENIOR
STANDING COUNSEL REPRESENTING FOR
J.V. PRASAD (Sr. SC FOR INCOME TAX)**

The Court delivered the following Judgment

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

INCOME TAX TRIBUNAL APPEAL No.545 of 2006

JUDGMENT: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. Y.Koteswara Rao, learned counsel representing Mr. Y.Ratnakar, learned counsel for the appellant.

Ms. K.Mamata Choudary, learned Senior Standing Counsel representing Mr. J.V.Prasad, learned Senior Standing Counsel for Income Tax Department for the respondent.

2. This appeal under Section 260A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') has been preferred by the assessee. The subject matter of the appeal pertains to assessment year 1995-96. The appeal was admitted on following substantial questions of law:

"1. Whether on the facts and in the circumstances of the case, the ITAT was correct in holding that no appeal is maintainable u/s.246A/246 of I.T.Act in respect of an order

passed u/s.154 of the I.T.Act against computation and levy of interest u/s.234B and u/s.234C of the I.T.Act 1961?

2. Whether on the facts and in the circumstances of the case, the levy of interest u/s.234-B of the I.T.Act at Rs.71,23,322/- and u/s.234-C at Rs.14,52,188/- is justified in law?"

3. Facts giving rise to filing of this appeal briefly stated are that the Assessing Officer disallowed the claim of the assessee under Section 43D of the Act to the tune of Rs.24,95,360/-. The assessee had made certain advance payments in respect of RTO tax, Group Gratuity and superannuation in previous year relevant to the assessment year 1994-95. In the assessment for the aforesaid assessment year, the claim of the assessee was disallowed on the ground that the liability did not accrue in that year. The assessee therefore requested the Assessing Officer to modify the assessment of the year under consideration i.e., Assessment year 1995-96 and to allow the claim. The Assessing Officer however by an order dated 13.11.1998 passed under Section 154 of the Act disallowed the claim and recomputed the interest under Sections 234A, 234B and 234C of the Act on the basis of income determined under Section 154 of the Act.

4. Being aggrieved, the assessee filed an appeal. The Commissioner of Income Tax (Appeals) IV, Hyderabad by an order dated 01.06.1999 dismissed the appeal. Being aggrieved, the assessee filed an appeal before the Income Tax Appellate Tribunal (hereinafter referred to as 'the Tribunal'). The Tribunal has affirmed the order passed by the Commissioner of Income Tax (Appeals). Hence, this appeal.

5. We have heard learned counsel for the parties at length.

6. The assessee has not denied its liability to pay interest under Section 234B of the Act. The dispute only relates to computation of interest. The Commissioner of Income Tax (Appeals) has assigned cogent and valid reasons for computation of interest and has placed reliance on decisions of the jurisdictional High Court in **M.G.Brothers v. CIT**¹ and **CIT v. Bankatlal Gopikishan**² as well as decision of Supreme Court in **Central Provinces Ore Co. Ltd. v. CIT**³ and has affirmed the order passed by the Commissioner of Income Tax (Appeals).

¹ 154 ITR 695

² 154 ITR 713

³ (1986) 3 SCC 461

7. For the aforementioned reasons, the substantial questions of law are answered against the assessee and in favour of the Revenue.

8. In the result, appeal fails and is hereby dismissed.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

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Sd/- K. SRINIVASA RAO
JOINT REGISTRAR

SECTION OFFICER

To,

1. The Income Tax Appellate Tribunal, Hyderabad Bench, Hyderabad
2. The Commissioner of Income Tax (Appeals), IV, Hyderabad
3. The Joint Commissioner of Income tax, (Assts) Special Range-5, Hyderabad
4. One CC to SRI. Y. RATNAKAR, Advocate [OPUC]
5. One CC to SRI. J. V. PRASAD (Sr. SC FOR INCOME TAX) Advocate [OPUC]
6. Two CD Copies

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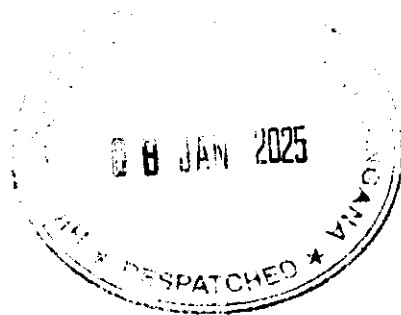
B. J.

HIGH COURT

DATED:28/11/2024

JUDGMENT

ITTA.No.545 of 2006



DISMISSING THE ITTA

8
10/12/2024
bvs