

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Tax Appeal No. 11 of 2016

M/s. Vaishnavi Agro, having its business place at Village-Bandha,
PO, PS & District- Deoghar, through its partner Sri Krishna Kumar
Khetan, S/o Late Chedilal Khetan, R/o Bajnath Par, PO, PS &
District-Deoghar Appellant

Versus

Income Tax Officer, Ward-III(I), Krishnapuri, William Town, PO, PS
& District-Deoghar Respondent

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Appellant : Ms. Darshana Poddar Mishra, Advocate
Mr. Mahendra Kr Chowdhary, Advocate
For the Respondent : Mr. Kumar Vaibhav, Sr. SC, IT
Mr. Durgesh Agarwal, Advocate

Order No. 06

Dated: 09.03.2026

1. Heard learned counsel for the parties.
2. This appeal under Section 260-A of the Income Tax Act, 1961 (hereinafter referred to as "the Act, 1961") is directed against the order dated 29.12.2006 passed by the Income Tax Officer, Ward-III(I), Deoghar, the order dated 14.03.2013 passed by the Commissioner of Income Tax (Appeals), Dhanbad and the order dated 04.11.2015 passed by the Income Tax Appellate Tribunal (ITAT), Ranchi Circuit Bench, Ranchi adding/confirming the addition of an amount of Rs.11,04,165/- to the appellant's returned income.
3. Ms Darshana Poddar Mishra, learned counsel for the appellant, submitted that the impugned orders are non-speaking and ignore the oral as well as written submissions made on behalf of the appellant. She submitted that none of the material evidence, like copies of the ledger account, bills, evidence of payments through banking channels and receipts of the commission agents through

whom goods were transported, was considered. She submitted that the finding regarding bogus sales is based on surmises and conjecture, without any primary or corroborative evidence.

4. Ms Darshana Poddar Mishra submitted that the Tribunal has relied only on the responses of two parties/customers to the effect that there had been no transactions with the appellant. She submitted that such responses could not have been recorded as the gospel truth without even affording the appellant any opportunity of cross-examining such parties.
5. Based upon the above submissions, Ms Darshana Poddar Mishra submitted that this appeal should be admitted on the following substantial questions of law:

- (I) *Whether under the facts and circumstances and in law the Tribunal is justified in confirming the addition without considering the oral as well as written submissions dated 28.12.2006 of the Appellant and even without taking into account the material evidences on records being copies of ledger account, bills of the concerned customers, evidence of payments received through banking channels and the receipts of the commission agent through whom goods were transported to the concerned customers?*
- (II) *Whether under the facts and circumstances and in law the Tribunal is justified in confirming the addition in absence of any corroborative evidence, evidencing bogus sales and completely ignoring the submissions and material evidences submitted by the Appellant?*
- (III) *Whether under the facts and circumstances and in law the Tribunal is justified in solely relying on the reply sent by the two parties/customers*

without corroborative evidences and that too without allowing an opportunity to the Appellant to cross-examine the said parties/customers?

- 6.** Mr Kumar Vaibhav, learned counsel for the respondent-Revenue, submitted that there are no substantial questions of law involved in this appeal and the matter relates exclusively to the appreciation of evidence. He submitted that there was overwhelming evidence on record, which the three authorities duly considered while recording concurrent findings of fact. He relied upon the reasoning in the impugned orders and submitted that this appeal may not be entertained.
- 7.** We have considered the rival contentions, perused the impugned orders and other material on record. In our judgment, considering the limited scope of an appeal under Section 260-A of the Act, 1961, no case is made out for entertaining this appeal. Brief reasons in support of this conclusion are set out hereafter.
- 8.** The finding regarding the bogus transaction cannot be regarded as based on "no evidence". In response to the appellant's assertion that the disputed transactions were genuine, notices were issued to the parties/customers involved in such transactions.
- 9.** Insofar as the Assessment Year 2004-05 is concerned, two of the customers M/s. S.M. Enterprises, Dhanbad and M/s. Shyam Agro (P) Ltd., Hazipur, stated in writing that they had no transaction with the assessee for the Assessment Year 2004-05. Similarly, for the Assessment Year 2005-06, notices were issued to M/s. Kundan Enterprises, Jharia and M/s. Udai Poultry Feed, Sultanganj. These notices were returned unserved with remarks "not known" and "no

trace”.

- 10.** Faced with the above responses or circumstances of non-service and non-traceability of the customers, a show-cause notice was issued to the appellant to explain the same. The appellant’s response was quite ambiguous. Firstly, it was stated that the appellant is unaware of why the customers are denying the transactions. Secondly, it was contended that, since enquiries are made after two years, the customers may now be untraceable.
- 11.** Written submissions were filed in which several hypotheses were sought to be proposed. A reference was made to the nature of the business. Reference was also made to certain ledger accounts and the entries therein. All of this has been considered by the three authorities. The ledger mostly shows cash entries. As regards Demand Draft(s), the explanation furnished by the appellant was not found convincing.
- 12.** The appellant bothered to lead no evidence, either by calling the customers or by producing creditworthy documents supporting the veracity of the transactions. Though the burden of initial proof was on the Revenue, the same was substantially discharged by the Revenue, and the onus shifted upon the appellant-assessee. The assessee, however, failed to discharge this onus.
- 13.** The complaint regarding the lack of an opportunity for cross-examination does not inspire confidence. There is no record indicating that such a request was made and refused. In any case, in this type of matter, the appellant could have easily presented the parties, as it was the appellant’s claim that the transactions with

these parties were indeed genuine.

- 14.** The appellant's case is nothing but an invitation to re-appreciate the evidence on record. Such an exercise is not undertaken in an appeal under Section 260-A of the Act, 1961, because this provision refers to entertaining an appeal only on the substantial questions of law. There are concurrent findings by these three authorities on a pure question of fact. No perversity is demonstrated in the record of such findings of fact.
- 15.** For all the above reasons, we are satisfied that the questions referred to by Ms Darshana Poddar Mishra do not amount to questions of law, much less, substantial questions of law.
- 16.** Accordingly, we dismiss this appeal without any order for costs.

(M. S. Sonak, C.J.)

(Rajesh Shankar, J.)

March 09, 2026
Manish/Ritesh
N.A.F.R

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