

IN THE INCOME TAX APPELLATE TRIBUNAL

HYDERABAD BENCH 'B'(SMC), HYDERABAD

BEFORE SHRI D.MANMOHAN, HON'BLE VICE PRESIDENT

ITA No.	Assessment Year	Appellant	Respondent
895/Hyd/2014	2007-08	M/s. Manas Greenland Pvt. Ltd., Hyderabad (PAN AACCM 4813 C)	Income Tax Officer (OSD)-2, Central Range -1, Hyderabad
896/Hyd/2014	2007-08	M/s. Parasnath Greenlands Pvt. Ltd., Hyderabad (PAN AACCP 1717 E)	Income Tax Officer (OSD)-2, Central Range -1, Hyderabad
898/Hyd/2014	2007-08	M/s. Sarayu Agro Farms Pvt. Ltd., , Hyderabad (PAN AA ECS 3125 G)	Income Tax Officer (OSD)-2, Central Range -1, Hyderabad

Appellants by : *Shri K.C.Devadas*
Respondent by : *Shri Solgy Jose T.Kottaram DR*

Date of Hearing	14.08.2014
Date of Pronouncement	

ORDER

These three appeals, though pertain to three different assessees, are directed against the orders passed by the Commissioner of Income-tax(Appeals) VII, Hyderabad, and they pertain to assessment years 2007-08. Since the issue involved in all these appeals is identical, I proceed to dispose of these appeals by a combined order, for the sake of convenience.

2. The facts in the case of M/s.Manas Greenlands Pvt. Ltd. are referred to, to explain the issue in dispute. The assessee is engaged in agricultural and allied activity. This company is one of the group companies constituted by Shri B.Ramalinga Raju and his family members. During the

course of scrutiny proceedings, the Assessing Officer called for the books of account of the assessee, wherein it was found that there were certain additions to the fixed assets during the previous year relevant to the assessment year under consideration. The assessee was called upon to explain the source of such investments. In the opinion of the Assessing Officer, the company failed to produce any evidence in support of the additions to the fixed assets, and therefore, the same were treated as unexplained investments in the hands of the assessee under S.69 of the Act. The Assessing Officer thus made an addition of Rs.4,52,713 under S.69 of the Act.

3. Similarly, in the case of M/s. Parasnath Greenlands and M/s. Sarayu Agro Farms, the Assessing Officer made additions of Rs.5,55,000 and Rs.1,72,832 respectively under S.69 of the Act.

4. Aggrieved, assessee contended before the learned CIT(A) that the Assessing Officer wrongly invoked S.69 of the Act, as in fact, credit in the bank account is self-explanatory to the fact that the payment was by way of fund transfer. The Assessing Officer, having accepted the Liability Side of the Balance Sheet, is not justified in isolating the 'Assets Side' of the Balance Sheet, since source of investment is proved.

5. Having explained the factual matrix of the case, the learned CIT(A) observed that these expenses/investments were not items of expenditure that were debited to Profit & Loss Account; more importantly, they cannot be called as 'unexplained', as they are extracted from 'Application of Funds' and the Asset Side of the Balance Sheet. In other words, the source of fund is explained. Though the learned CIT(A) observed that these cannot be treated as unexplained, he proceeded on a different footing that if the expenses were capitalized, the allowance of the same as expenditure can be considered in a subsequent year, i.e. as and when the lands are sold. This implies that the

led CIT(A) has not given a categorical finding about the source of funds or application of funds and the final observations are based on incorrect appreciation of facts.

6. Assessee herein preferred appeals before the Appellate Tribunal contending inter alia that the assessee filed complete details of the expenses/investments alongwith supporting evidence, and thus the finding of the learned CIT(A) is not necessary for the disposal of appeals.

7. On the other hand, the Learned Departmental Representative submitted that the appeal filed by the assessee herein are academic in nature, since the learned CIT(A) merely directed the Assessing Officer to consider the issue in the year in which the assets are sold, and hence, the assessee's cannot be said to have been aggrieved in the year under consideration.

8. I have carefully considered the rival submissions and perused the record. Admittedly, assessee has made investments in fixed assets and the source of such investments was the inflow available on the Liability Side of the Balance Sheet. Since the Assessing Officer has not properly appreciated the facts, before the learned CIT(A), the source was explained, and the same was accepted by the learned CIT(A). Having accepted the source of funds, there cannot be any addition made in this year and even in the subsequent year, i.e. in the year of sale, the source of investment cannot be disputed. Therefore, the learned CIT(A) is not justified in giving direction to the Assessing Officer to consider the source of investment in the year of sale. In these circumstances, we set aside the directions of the learned CIT(A) and hold that it is not a fit case for making the addition under S.69 of the Act.

9. With these observations, the appeals filed by the assessee are treated as allowed.

Order pronounced in the court on 14th August, 2014

Sd/-

(D.Manmohan)
Vice President

Dt/- 14th August, 2014

Copy forwarded to:

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2. Ms. Parasnath Greenlands Pvt. Ltd., Plot No.80, Road No.9, Jubilee Hills, Hyderabad 500 033.
3. M/s., Sarayu Agro Farms pvt. Ltd., Plot no.80, Road no.9, Jubilee Hills, Hyderabad
4. Income Tax Officer (OSD)-2, Central Range 1, Hyderabad
5. Commissioner of Income-tax(Appeals) VII Hyderabad
6. Commissioner of Income-tax Central , Hyderabad
7. Departmental Representative, ITAT, Hyderabad.

B.V.S