

SUPREME COURT OF INDIA

Saraswathi Oil Traders

Vs.

Commr of Income-tax-Hubli

C.A.Nos.823-824 of 2002

(S. P. Bharucha CJI., K.T.Thomas and Shivaraj V. Patil JJ.)

29.01.2002

ORDER

1. Leave granted.
2. The order under challenge was passed by a Division Bench of the High Court of Karnataka on an application by the Revenue under Section 256(2) of the Income-tax Act.
3. The Revenue sought to refer to the High Court the following question :

"Whether on facts and in circumstances of the case the ITAT is right in law in deleting the additions made on account of bogus purchases of Ground-nut cakes as well as additions made on account of unaccounted income of sale of groundnut oil for the assessment years 1990-91 and 1991-92."
4. The Tribunal declined to make the referenc because, in its view, the question was not a question of law. The High Court found it necessary to record that a careful assessment of the record would indicate that there was a definite point of law involved and that the Tribunal's conclusion was incorrect.
5. As we read the question, it does not involve any question of law and the High Court has not recorded what definite point of law it found was involved. We must record that, with fairness, the learned Attorney General has not supported the order of the High Court.
6. The civil appeals are allowed. The order under challenge is set aside.
7. No order as to costs.
Appeals allowed.