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SLP(C)No. 14441-14442 OF 2001

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ITEM No.21

Court No. 1

SECTION IIIA  
A/N MATTER

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) Nos.14441-14442/2001

(From the judgement and order dated 28/02/2001 in CP 132/99 and  
132A/99 of The HIGH COURT OF KARNATAKA AT BANGALORE)

M/S. SARASWATHI OIL TRADERS

Petitioner (s)

VERSUS

COMMNR. OF INCOME TAX, HUBLI

Respondent (s)

(With prayer for interim relief and office report)

Date : 29/01/2002 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE K.T. THOMAS

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL

For Petitioner (s) Ms. S.R. Anuradha Pradeep, Adv.  
Ms. Kavita Wadia, Adv.  
Mr. Maninder Singh, Adv.  
Mrs. Pratibha M. Singh, Adv.

For Respondent (s) Mr. Soli J. Sorabjee, A.G.  
Mr. Ranbir Chandra, Adv.  
Mr. B.V. Balaram Das, Adv.

UPON hearing counsel the Court made the following

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Ms. Anuradha Pradeep, learned counsel for the  
petitioner commenced her arguments at 11.50 a.m. and  
concluded at 11.55 a.m. Thereafter, the learned Attorney  
General, appearing for the Revenue, made his submissions for  
five minutes.

Leave granted.

The civil appeals are allowed.

No order as to costs.

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(N. Annapurna)  
Court Master

(Shelly Sengupta)  
Court Master

(Signed order is placed on the file.)

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal Nos.823-824 of 2002@@  
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(Arising out of S.L.P. (C) Nos.14441-14442 of 2001)

M/s. Saraswathi Oil Traders ...Appellant (s)

Versus~

Commissioner of Income Tax, Hubli ....Respondent (s)

O R D E R@@  
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Leave granted.

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.

The Revenue sought to refer to the High Court the following question:

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"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."

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The Tribunal declined to make the reference 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.

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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.

The civil appeals are allowed. The order under challenge is set aside. No order as to costs.

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.....J.@@

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(K.T. Thomas)@@  
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(Shivaraj V. Patil)@@  
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New Delhi,  
January 29, 2002.