



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF AUGUST, 2024

PRESENT

THE HON'BLE MR JUSTICE S.G.PANDIT

AND

THE HON'BLE MR JUSTICE C.M. POONACHA

INCOME TAX APPEAL No. 469 OF 2022

C/W

INCOME TAX APPEAL No. 470 OF 2022

IN ITA No.469/2022

BETWEEN:

1. THE PR. COMMISSIONER OF INCOME -TAX
CENTRAL CIRCLE, C.R.BUILDING
QUEEN'S ROAD, BENGALURU - 560 001.
2. THE DEPUTY COMMISSIONER OF INCOME -TAX
CENTRAL CIRCLE-1(4) C.R.BUILDING
QUEEN'S ROAD, BENGALURU - 560 001.

...APPELLANTS

(BY SRI RAVI RAJ Y V, ADVOCATE)

AND:

M/s. CONFIDENT PROJECTS INDIA PVT. LTD.,
No.574 PARK HOUSE, 8TH BLOCK
KORAMANGALA
BENGLAURU - 560 095.
PAN: AACCC 7506L.

...RESPONDENT

(BY SRI M.S. RAJENDRA, ADVOCATE FOR





SRI VIVEK HOLLA, HOLLA AND HOLLA, ADVOCATE)

THIS ITA IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, PRAYING TO FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED THEREIN AND ALLOW THE APPEAL AND SET ASIDE THE ORDERS PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, BENGALURU IN ITA No. 336/BANG/2021 DATED 13/05/2022 FOR ASSESSMENT YEAR 2012-2013 ANNEXURE-C AND CONFIRM THE ORDER OF THE APPELLATE COMMISSIONER CONFIRMING THE ORDER PASSED BY THE PR. COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE, BENGLAURU AND ETC.,

IN ITA No.470/2022

BETWEEN:

1. THE PR. COMMISSIONER OF INCOME -TAX
CENTRAL CIRCLE, C.R.BUILDING
QUEEN'S ROAD, BENGALURU - 560 001.
 2. THE DEPUTY COMMISSIONER OF INCOME -TAX
CENTRAL CIRCLE-1(4) C.R.BUILDING
QUEEN'S ROAD, BENGLAURU - 560 001.
- ...APPELLANTS

(BY SRI RAVI RAJ Y V, ADVOCATE)

AND:

M/s. CONFIDENT PROJECTS INDIA PVT. LTD.,
No.574 PARK HOUSE, 8TH BLOCK
KORAMANGALA
BENGLAURU - 560 095.
PAN: AACCC 7506L.

...RESPONDENT

(BY SRI M.S. RAJENDRA, ADVOCATE FOR
SRI VIVEK HOLLA, HOLLA AND HOLLA, ADVOCATE)



THIS ITA IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, PRAYING TO FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED THEREIN AND ALLOW THE APPEAL AND SET ASIDE THE ORDERS PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, BENGALURU IN ITA No. 409/BANG/2021 DATED 13/05/2022 FOR ASSESSMENT YEAR 2011-2012 ANNEXURE-C AND CONFIRM THE ORDER OF THE APPELLATE COMMISSIONER CONFIRMING THE ORDER PASSED BY THE PR. COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE, BENGLAURU AND ETC.,

THESE APPEALS COMING ON FOR ADMISSION THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE S.G.PANDIT
and
HON'BLE MR JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: HON'BLE MR JUSTICE S.G.PANDIT)

1. ITA No.469/2022 is filed by the Revenue questioning the order passed by the Income Tax Appellate Tribunal, Bengaluru¹ in ITA No.336/Bang/2021 dated 13.05.2022 for the assessment year 2012-13 and ITA No.470/2022 is also filed by the Revenue questioning the order passed by the Tribunal in ITA No.409/Bang/2021 dated 13.05.2022 for the assessment year 2011-12.

¹ Hereinafter referred to as the 'Tribunal'



2. In both the appeals the Revenue has raised the following substantial questions of law:

1. "Whether, on the facts and in the circumstances of the case and law, the Tribunal is right in law in setting aside order passed under section 263 of the Act by holding that order reviewed by Commissioner in proceedings initiated under section 263 of the Act are not based on incriminating materials ignoring that section 15# do not stipulate that order under section 143(3) read with section 153A has to be based on incriminating material and when the Commissioner rightly took up suo motu revision as conditions set out in Section 263 are fully satisfied"?

2. "Whether, on the facts and in the circumstances of the case and law, Tribunal's order can be said as perverse in holding that directions issued by Commissioner under section 263 of the Act cannot be sustained in law ignoring mandate of sections 263 of the Act and as well as 153A of the Act"?

3. "Whether on the facts and in the circumstances of the case, the Tribunal is right in law holding that the Pr.CIT is seeking to revise the assessment orders completed u/s 143(3) r.w.s. 153A of the I.T.Act when the Assessing Officer in order passed under section 143(3) r.w.s. 153A of the I.T.Act, cannot deny the claim of deduction u/s 80IB of the I.T.Act (in absence of incriminating material), therefore, the Pr.CIT in a revisionary proceeding cannot direct the assessing officer to disallow the claim of deduction"?

4. "Whether on the facts and in the circumstances of the case, the Tribunal is right in law in holding that there is no error in the assessment orders completed u/s 143(3) r.w.s. 153A of the I.T.Act (since there is no incriminating material found during the course of search pertaining to the claim of deduction under section 80IB of the I.T.Act), warranting interference by Pr.CIT u/s 263 of the I.T.Act when assessing



authority had failed to consider that conditions set out Section 80IB were not fully satisfied in case of assessee to allow the claim made under said section and when original assessments passed on 10.05.2013 and 14.08.2014 for A.Y. 2011-12 and 2012-13 under section 143(3) were abated as per proviso to Section 153A of the Act"?

3. Appeals were filed on 22.09.2022. Monetary value involved in ITA No.469/2022 is ₹76,50,017/- and in ITA No.470/2022 is ₹74,56,741/- respectively. Subsequent to filing of the appeals, Circular bearing No.5/2024 [F.No.279/Misc.142/2007-ITJ(PT.)] dated 15.3.2024 is issued under Section 265(A) of the Income Tax Act, 1961 prescribing monetary limit to prefer an appeal before the High Court.

4. In view of the above Circular, the above appeals would not be maintainable since monetary value involved in these appeals is less than rupees one crore. Therefore, the above appeals would not survive for consideration and they are dismissed.



NC: 2024:KHC:33055-DB
ITA No. 469 of 2022
C/W ITA No. 470 of 2022

5. In view of the above, the substantial questions of law raised in both the appeals are kept open to be considered in an appropriate case.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(C.M. POONACHA)
JUDGE

BS
List No.: 1 Sl No.: 10