



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF FEBRUARY, 2025

PRESENT

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

AND

THE HON'BLE MR JUSTICE G BASAVARAJA

INCOME TAX APPEAL NO. 188 OF 2024

BETWEEN:

1. THE PR. COMMISSIONER OF INCOME-TAX,
AAYAKAR BHAVAN, PLOT NO.5,
EDC COMPLEX, PATTO PLAZA,
PANAJI, GOA - 403001.
2. THE JOINT COMMISSIONER OF INCOME-TAX,
RANGE-1, MANGALURU,
PRESENT ADDRESS,
ACIT, CIRCLE-1(1) AND TPS, MANGALURU,
II FLOOR, C R BUILDING ANNEXE,
ATTAVARA, MANGALURU - 575001.

...APPELLANTS

(BY SRI. THIRUMALESH M., ADVOCATE)

AND:

M/S NEW MANGALORE PORT AUTHORITY,
FA AND CAO PANAMBUR,
MANGALURU - 575010
PAN: AAALN0057A.

...RESPONDENT

THIS ITA IS FILED UNDER SEC. 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 19.12.2023 PASSED IN (IN ITA NO.755/BANG/2023, FOR THE ASSESSMENT YEAR 2012-2013 PRAYING TO FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE AND ALLOW THE APPEAL AND SET ASIDE THE ORDERS PASSED BY THE INCOME-TAX APPELLATE TRIBUNAL, BENGALURU IN ITA



NO.755/BANG/2023 DATED 19.12.2023 FOR ASSESSMENT YEAR 2012-2013 (ANNEXURE-A) AND THE ORDER OF THE APPELLATE COMMISSIONER TO THE EXTENT OF HAVING HELD AGAINST THE REVENUE AND CONFIRM THE ORDER PASSED BY THE JOINT COMMISSIONER OF INCOME TAX, RANGE-1, MANGALURU; AND ETC.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE KRISHNA S DIXIT
and
HON'BLE MR JUSTICE G BASAVARAJA

ORAL JUDGMENT

(PER: HON'BLE MR JUSTICE KRISHNA S DIXIT)

The Revenue is in appeal under Section 260-A of the Income Tax Act, 1961 questioning the correctness and legality of order dated 19th December, 2023 passed by Income Tax Appellate Tribunal, 'B' Bench, Bangalore in ITA No.755/Bang/2023 for the Assessment Year 2012-2013.

2. The Revenue has framed the following substantial questions of law in the appeal memo:

"1. Whether on the facts and in the circumstances of the case and law, the ITAT erred in not considering the fact that the deduction u/s 80IA is not allowable to the assessee?"

2. Whether on the facts and in the circumstances of the case and law, the ITAT erred in not considering the fact that it has been correctly mentioned by the AO and subsequently confirmed by the CIT(A) also that the



deduction claimed by the assessee was purely on estimation basis?

3. Whether on the facts and in the circumstances of the case and law, the ITAT erred in not considering the fact that the assessee failed to furnish the original audit report, Form 10CBB filed along with ITR and hence the assessee was not able to satisfy the conditions laid down in section 80IA r.w.s.18BBB of the Act?

4. Whether on the facts and in the circumstances of the case and law, the ITAT erred in not considering the fact that assessee made a revised claim of deduction u/s 80IA for each AY by filing revised Form 10CBB and no suitable explanation, supporting documents and evidences were produced by the auditor during the assessment proceedings as well as appellate proceeding?

5. Whether on the facts and in the circumstances of the case and law, the ITAT has erred in dismissing the cross-objections without giving due consideration to the merits of the case and erroneously stating that the Assessing Officer did not raise the issue in the remand report?

6. Whether on the facts and in the circumstances of the case and law, the ITAT erred in holding that the cross-objection cannot be filed by

7. Whether on the facts and in the circumstances of the case and law, the ITAT erred in not considering that it is the last fact finding authority and should have appreciated the facts that are already available on record when brought to its notice by the revenue?

8. Whether on the facts and in the circumstances of the case and law, the ITAT erred in not appreciating the fact that the Tribunal is bound to consider whether all conditions were satisfied even when the Assessing Officer denied deduction for non-fulfilment of only one condition?"

3. Since the amount involved in the case falls below the minimum ceiling limit prescribed in the CBDT Circular No.9/2024 dated 17th September, 2024, the Appeal is not maintainable and accordingly it is disposed off reserving liberty



to recall the order in the event the matter falls in one of the exceptions enumerated in the Circular or otherwise.

**Sd/-
(KRISHNA S DIXIT)
JUDGE**

**Sd/-
(G BASAVARAJA)
JUDGE**

Inn
List No.: 1 Sl No.: 10