



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH 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. 541 OF 2023

BETWEEN:

MRS. SHANTHI R RAI
W/O. MR RAMESH PAI,
AGED ABOUT 75 YEARS,
DEVAASHISH,
6TH CROSS, LAXMINDRANAGAR,
KUNJIBETTU, UDUPI – 576 102.
(BENEFIT OF SR. CITIZEN NOT CLAIMED)

...APPELLANT

(BY SRI. MAHESH R UPPIN.,ADVOCATE)

AND:

1. COMMISSIONER OF INCOME TAX (APPEALS)
NATIONAL FACELESS APPEAL CENTRE,
ROOM NO. 356, C.R. BUILDING,
I.P ESTATE. NEW DELHI – 110 002.
2. THE INCOME TAX OFFICER,
WARD -3, AAYAKAR BHAVAN,
MALPE ROAD, ADI-UDUPI,
UDUPI-576 103.

...RESPONDENTS

(BY SRI.E I SANMATHI.,ADVOCATE)

THIS ITA / INCOME TAX APPEAL UNDER SEC.260-A
OF INCOME TAX ACT 1961, ARISING OUT OF ORDER
DATED 18/04/2023 PASSED ITA NO.390/BANG/2023 FOR

Digitally signed
by SHARADA
VANI B
Location: HIGH
COURT OF
KARNATAKA



THE ASSESSMENT YEAR 2013-14 PRAYING TO I) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE AND II) SET ASIDE THE ORDER DATED 18/04/2023 PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, BENGALURU IN ITA NO. 390/BANG/2023 FOR THE ASSESSMENT YEAR 2013-14 MARKED AS ANNEXURE-D AND ALLOW THIS APPEAL, IN THE INTEREST OF JUSTICE.

THIS ITA, COMING ON FOR ADMISSION, THIS DAY, JUDGEMENT WAS DELIVERED THEREIN AS UNDER:

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

ORAL JUDGEMENT

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

A wife is grieving in the Appellate Jurisdiction of this Court on the ground that whatever has been presented by way of gift by the husband who was working as a Chartered Accountant on a foreign soil, could not have been taxed under the provisions of Income Tax Act, 1961.

2. The Appellant – Assessee has framed the following substantial questions of law:

"1. Whether the Assessment Order dated 26.12.2019 passed by Respondent No.1 is a speaking order without bringing on record the material to substantiate and establish from which it could be concluded that the



investments to the extent additions made were in fact made by the appellant.

2. Whether on the facts and circumstances of the case and in law, was the tribunal justified in sustaining the remaining addition of Rs.21,79,000/- by not interfering with the order of 1st Respondent dated 28.10.2022.

3. Whether the Income Tax Act, 1961 contains provisions mandating the wife to furnish explanation for the cash deposits in her bank a/c made by her husband who was suffering from neurological disorder, continued dementia and memory failure since 2016 and medically declared as unable to recall/memorize the past transactions.

4. Whether on the facts and circumstances of the case and in law, was the tribunal right in holding that the impugned additions made in the assessment order sustainable under a different section, viz: Sec.69 of the Act as 'Unexplained Investments' when the appeal was agitated before the below authorities under Sec,69A of the Act."

3. Learned Sr. Panel Counsel appearing for the Respondent – Revenue vehemently resists the Appeal contending that none of these questions has trappings of law, much less substantial questions of law. When we confronted him with the question whether the Assessing Authority can ignore the evidentiary material that could



have made difference to the finding of fact on which the impugned orders are constructed, he very fairly says such a material needs consideration. Such a gesture, in our opinion gives raise to a substantial question of law because that would be a finding recorded at least without evidence if not contrary to.

4. There is a lot of authority in support of above view. Therefore, these questions need not be answered at our hands in this case since we are taking the route of remanding the matter for consideration afresh, as warranted by the demands of justice.

In the above circumstances, this Appeal is allowed in part; the impugned orders are set at naught; mater is remanded to the portals of Assessing Authority for consideration afresh, in accordance with law and after giving an opportunity of hearing to the Appellant – Assessee. All contentions are kept open.



Liberty is reserved to the Assessee to produce additional documents if any, relevant to the subject matter, of course within a reasonable time.

Costs made easy.

Sd/-
(KRISHNA S DIXIT)
JUDGE

Sd/-
(G BASAVARAJA)
JUDGE

Bsv
List No.: 1 Sl No.: 28