



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JANUARY, 2025

PRESENT

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

AND

THE HON'BLE MR JUSTICE G BASAVARAJA

INCOME TAX APPEAL NO. 462 OF 2022

BETWEEN:

1. THE PR. COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE, C R BUILDING
3RD FLOOR, QUEENS ROAD, BENGALURU 560 001.
2. THE DEPUTY COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE 2(1), C R BUILDING,
3RD FLOOR, QUEENS ROAD, BENGALURU 560 001.

...APPELLANTS

(BY SRI. M DILIP., ADVOCATE FOR
SRI. Y V RAVIRAJ.,ADVOCATE)

AND:

M/S. CHAITANYA PROPERTIES PVT. LTD.,
NO 17, SANKEY ROAD, BENGALURU 560 020.
PAN AAACC 5900A

...RESPONDENT

(BY SRI. CHANDRASEKHAR V.,ADVOCATE)

THIS ITA / INCOME TAX APPEAL UNDER SEC.260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 19/04/2021 PASSED IN ITA NO.497/BANG/2021, FOR THE ASSESSMENT YEAR 2015-2016, PRAYING TO I. FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED THEREIN. AND II. ALLOW THE APPEAL AND SET ASIDE THE ORDERS PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, BENGALURU IN ITA NO. 497/BANG/2021 DATED 19/04/2022 FOR ASSESSMENT YEAR 2015-2016 ANNEXURE-C CONFIRMING THE ORDER OF THE APPELLATE COMMISSIONER AND

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CONFIRMING THE ORDER PASSED BY THE DEPUTY COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE-2(1), BENGALURU AND ETC.,

THIS ITA, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT 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)

This Appeal by the Revenue calls in question the order dated 19.04.2022 whereby the Income Tax Appellate Tribunal has negatived Revenue's Appeal in ITA No.494-497/BANG/2021 and thereby, has affirmed common order dated 31.03.2021 for the Assessment Years 2011-12, 2012-13, 2013-14, 2014-15 & 2015-16.

2. The Revenue has framed 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 deleting the additions made by assessing authority by holding that there are no incriminating materials on which additions are made ignoring that the incriminating materials were found against assessee in search conducted in case of M/s. Srinivasa Trust, KBD Sugars & Distilleries which were seized and subsequently



satisfaction was recorded on 14/09.2018 in pursuance to the provisions of Section 153C of the Act.

2. Whether, on the facts and in the circumstances of the case and law, Tribunal and CIT(A)'s orders can be said as perverse in holding that additions made by assessing authority cannot be sustained in law ignoring mandate of sections 153 A and 153C of the Act?

3. Whether on the facts and in the circumstances of the case, the Tribunal is right in law deleting additions ignoring findings of the assessing authority?"

3. Having heard the learned Panel Counsel for the Revenue and Mr. Shankar learned Sr. Advocate appearing for the Assessee, we decline indulgence in the matter since the above questions of law do not arise for consideration in view of what the Tribunal has observed at Paragraph No.12 of the impugned order which reads as under:

"12..... Admittedly, none of the additions made in these 4 appeals are based on any incriminating material found in the course of search in the case of M/s. Srinivasa Trust on 23.09.2016. In such a scenario, the additions made in the order of Assessment cannot be sustained. As far as the decision on the Hon'ble Karnataka High Court in the case of Canara Housing Development Co. Ltd., 48 taxmann.com 98 (Karn.), the Hon'ble Karnataka High Court in the decision rendered in the case of M/s. Delhi International Airport Pvt. Ltd. ITA No.322/2018 order dated 29.9.2021, wherein the



law was explained that in an unabated assessments completed prior to search, there can be no addition in an Assessment under section 153C of the Act without material having been found in the course of search. The earlier decisions rendered by the Hon'ble Karnataka High Court and other High Courts were duly considered and there is no dispute on this aspect and the fact that the said decision is the law as of today on the subject rendered by the Hon'ble Karnataka High Court."

Despite turning the Appeal papers, nothing is demonstrated as to how the above observations of the Tribunal can be faltered.

In the above circumstances, this Appeal being unworthy of merits, dismissed at the stage of Admission, costs having been made easy.

Sd/-
(KRISHNA S DIXIT)
JUDGE

Sd/-
(G BASAVARAJA)
JUDGE

Bsv