



CNR: KAHC010374272015

NC: 2026:KHC:37300-DB
ITA No. 365 of 2015

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 16TH DAY OF JULY, 2026
PRESENT
THE HON'BLE MR. JUSTICE S.G.PANDIT
AND
THE HON'BLE DR. JUSTICE K.MANMADHA RAO
INCOME TAX APPEAL NO. 365 OF 2015

BETWEEN:

SRI. C. RAMAIAH REDDY
NO.19-22, SANDEEP NILAYAM
1ST CROSS, VIBHUTHIPURA
SECTOR 'C', RAMAIAH REDDY COLONY
BASAVANAGAR,
BANGALORE-560 037.

...APPELLANT

(BY SRI. SHANKAR A., SR. COUNSEL A/W
SRI MADHUSUDHAN U.A., ADV. FOR
SRI M LAVA & G VENKATESH, ADVS.)

AND:

DEPUTY COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE-2(2)
C R BUILDING, QUEEN'S ROAD
BANGALORE-560 001.

...RESPONDENT

(BY SRI. Y V RAVI RAJ & SRI. M DILIP, ADVS.)

THIS APPEAL IS FILED UNDER SEC.260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 10/04/2015 PASSED IN ITA NO.1778/BANG/2013, FOR THE ASSESSMENT YEAR 2011-2012, PRAYING TO I. TO FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW AS STATED ABOVE AND ANSWER THE SAME IN FAVOUR OF THE APPELLANT AND II. TO ALLOW THE APPEAL AND SET ASIDE THE FINDINGS TO THE EXTENT AGAINST THE APPELLANT IN THE ORDER PASSED BY THE ITAT, BENGALURU BENCH IN ITA

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NANTUNDACHARI
Location: High
Court of
Karnataka



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NO.1778/BANG/2013 RELATING TO ASSESSMENT YEAR 2011-12
VIDE ITS ORDER DATED 10/04/2015.

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

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
AND
HON'BLE DR. JUSTICE K.MANMADHA RAO

ORAL JUDGMENT

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

This Income Tax Appeal under Section 260A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') is filed by the assessee, Sri. C Ramaiah Reddy, challenging the order of the Income Tax Appellate Tribunal "C" Bench, Bangalore (hereinafter referred to as 'the Tribunal') dated 10.04.2015 in ITA No.1778/Bang/2013 for the assessment year (hereinafter referred to as 'AY') 2011-12.

2. This appeal was admitted on 10.01.2018 to examine the following substantial questions of law:

- i. Whether the authorities below have assumed proper jurisdiction in the case of the appellant to pass assessment order under section 143(3) r.w.s 153A of the Act on the facts and circumstances of the case?*



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- ii. Whether the Tribunal is justified in law in not adjudicating the specific ground raised by the appellant challenging the validity of search under section 132 of the Act in the case of the appellant even though the Tribunal was competent to look into such validity on the facts and circumstances of the case?*
- iii. Whether the Tribunal is justified in law in sustaining the addition of Rs.6,74,320/- as unexplained investment in jewellery based on valuation report obtained by the department on the facts and circumstances of the case?*
- iv. Without prejudice, whether the Tribunal is correct in law in sustaining the addition of Rs.6,74,320/- as unexplained investment in jewellery for the assessment year 2011-12 contrary to the provisions of section 69 and 69B of the Act when the appellant was found to be the owner of the jewellery at the time of search on 05.07.2011 relevant to assessment year 2012-13 on the facts and circumstances of the case?*

3. The brief facts giving rise to the appeal are as follows:



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A search and seizure action under section 132 of the Act was carried out in the premises of the assessee on 05.07.2011. Subsequently, a notice under section 153A of the Act was issued to the assessee on 02.09.2011, in response to which, the assessee filed a return of income (hereinafter referred to as 'ITR') under section 139(1) of the Act declaring an income of Rs.23,97,25,550/-. The respondent No.1 passed the assessment Order under section 143(3) read with section 153A of the Act on 26.02.2013, whereby, *inter alia*, an addition of Rs.6,74,320/- was made by the AO for unexplained investment in jewellery, which forms the subject matter of the present appeal.

4. Aggrieved by the assessment Order dated 26.02.2013, the assessee filed an appeal before the Commissioner of Income Tax (Appeals) (hereinafter referred to as 'CIT(A)'), however, the appeal filed by the assessee was dismissed vide Order dated 29.11.2013.



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Challenging the Order of the CIT(A), the assessee filed an appeal before the Tribunal. Vide impugned Order dated 10.04.2015, the Tribunal has partly allowed the appeal filed by the assessee, however, the addition for unexplained jewellery to the tune of Rs.6,74,320/- has been sustained. Aggrieved by the same, the assessee is before this Court.

5. Heard learned senior counsel Sri. A Shankar for Sri. M Lava learned counsel for the assessee and Sri. Y V Raviraj and Sri. M Dilip learned counsel for the Revenue.

6. Learned senior counsel Sri. A Shankar for the assessee would submit that the assessee had offered Rs.50,00,000/- as part of the declaration made during the search proceedings with respect to jewellery found during the course of search in order to make peace with the department. However, it is submitted that for the AY 2011-12, in accordance with the valuation report, the AO has made an addition of Rs. 6,74,320/- as unexplained



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jewellery over and above the declaration of Rs.50,00,000/- made by the assessee. It is submitted that though the valuation is made as on the date of search, the addition has been made for AY 2011-12 under section 69 which is erroneous and could have only been made for the AY 2012-13. Thus, it is submitted that the addition of Rs.6,74,320/- for the AY 2011-12 is unsustainable. Moreover, during the course of hearing the learned senior counsel submitted that substantial questions of law No.1 and 2 have been rendered academic and hence, he would not be pressing the same. Thus, it is prayed that the substantial question of law No.3 and 4 be answered in favor of the assessee.

7. Per contra, learned senior standing counsel for the Revenue Sri. Y V Raviraj would support the Order passed by the Tribunal and submit that since there is no dispute as regards the valuation report, the AO was right in making an addition for the AY 2011-12. Thus, he would pray for dismissal of the appeal.



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8. Having heard the learned counsel for the parties and having perused the appeal papers as well as the materials on record, we are of the opinion that the Tribunal erred in maintaining the addition to the tune of Rs.6,74,320/- for the AY 2011-12 for the following reasons:

It is an admitted fact that during the course of search proceedings, in his statement recorded under Section 132(4) of the Act, the assessee offered a sum of Rs.50,00,000/- for the jewellery found at his premises to make peace with the department. However, in terms of the valuation report, the AO has made an addition of Rs.6,74,320/- as unexplained jewellery for the AY 2011-12. In other words it would mean that AO rejected the assessee's offer and made addition in terms of valuation report i.e., Rs.56,74,320/-. Admittedly the date of search was 05.07.2011 and the AY corresponding to the date of search would be 2012-13. As per Section 69B of the Act, an addition can be made where the AO finds that the



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assessee has made investments or is found to be the owner of any valuable article and the amount expended thereon exceeds the amount recorded in the books of account. Such excess is deemed to be the income of the assessee for the financial year in which the investment is made or the valuable article is found. In the present case, once the AO chose not to accept the declaration made by the assessee under Section 132(4) of the Act and instead proceeded to make a separate addition on the basis of the valuation report by invoking section 69B, the addition, if at all warranted, could only have been made for the AY corresponding to the date of search, namely, AY 2012-13, and not for AY 2011-12. The Tribunal, therefore, was not justified in sustaining the addition of Rs.6,74,320/- for the AY 2011-12.

9. Accordingly, the substantial question of law No. 4 is answered in favour of the assessee and against the Revenue. Since, question of law No.4 is answered in



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favour of the assessee, question of law No.3 is rendered nugatory. The impugned order of the Tribunal, insofar as it sustains the addition of Rs.6,74,320/- for the AY 2011-12, is set aside. Consequently, the addition made by the AO under Section 69B of the Act for the AY 2011-12 stands deleted. In view of the submission made by the learned senior counsel for the assessee, substantial question of law Nos.1 and 2 are not pressed and are accordingly left open. The Income Tax Appeal stands allowed to the above extent.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(DR.K.MANMADHA RAO)
JUDGE

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