HC-KAR
CNR: KAHC010464822019

NC: 2026:KHC:36508-DB
ITA No. 713 of 2019

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.713 OF 2019

BETWEEN:

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

2. THE DEPUTY COMMISSIONER OF INCOME-TAX,
CENTRAL CIRCLE-1(3),
C.R BUILDING, QUEEN'S ROAD,
BENGALURU - 560 001.

...APPELLANTS

(BY SRI. RAVI RAJ Y. V., AND
SRI. M. DILIP, ADVOCATE)

Digitally signed by G SHREERAKSHA
Location: HIGH COURT OF KARNATAKA

AND:

M/S. ASSOCIATED MINING COMPANY
ERSTWHILE PARTNER
SMT. K.M. PARVATHAMMA &
SRI.K.M. VISHWANATH, 164/3,
LAXMI VENKATESHWARA NILAYA,
16TH CROSS, VYALIKAVAL,
BENGALURU - 560 003.

...RESPONDENT

(BY SRI. SHANKAR A., SENIOR COUNSEL A/W
SRI. MADHUSUDHAN U.A. FOR SRI. LAVA M.,
ADVOCATES)

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 14.05.2019 PASSED IN ITA NO.1799/BANG/2017, FOR THE ASSESSMENT YEAR 2009-2010, 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.1799/BANG/2017 DATED:14.05.2019 FOR ASSESSMENT YEAR 2009-2010 ANNEXURE-D CONFIRMING THE ORDER OF THE DRP AND CONFIRM THE ORDER PASSED BY THE DEPUTY COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE-1(3), BENGALURU.

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)

The revenue is in appeal under Section 260A of the Income Tax Act, 1961 ('the Act', for short) questioning the order dated 14.05.2019 passed in ITA No.1799/Bang/2017 passed by the Income Tax Appellate Tribunal ('ITAT', for short) at Bengaluru for the Assessment Year 2009-2010, confirming the order of the DRP and the order passed by the Deputy Commissioner of Income Tax,

Central Circle - 1(3), Bengaluru, raising the following substantial questions of law:-

1. *"Whether on the facts and circumstances of the case, is the levy of penalty under section 271(1)(c) of the Act mandatorily requires the conclusion of any proceedings under the Act ?"*

2. *"Whether on the facts and circumstances of the case, the information / evidence gathered during any proceedings which evidences tax sought to be evaded is not adequate ground for levy of penalty ?"*

3. *"Whether on the facts and circumstances of the case, the penalty proceedings ought to have been adjudicated from when the original assessment order is subject matter of appeal under section 260A?"*

4. *"Whether on the facts and in the circumstances of the case, the Tribunal is right in quashing the penalty orders by holding that assessment orders have been quashed by it already without going into question that whether 271(1)(c) conditions are satisfied in case of assessee to attract penalty under said section"?*

2. Heard Sri.M.Dilip learned counsel for the appellants - revenue and Sri.Shankar A., learned senior counsel along with Sri.Madhusudhan U.A., learned counsel for the respondent - assessee through video conference.

3. The respondent is a Mining Company and the assessment orders were passed under Section 153A read with Section 144 of the Income Tax Act, 1961. Thereafter,

penalty proceedings were also initiated under section 271(1)(c) of the Act with regard to additions made in the assessment orders. The assessee preferred appeal against the penalty orders before the Commissioner of Income Tax (Appeals) [CIT(A)]. On appeal, the CIT(A) deleted the levy of penalty. Aggrieved by the said order, the revenue preferred appeal before the Tribunal. The Tribunal under the impugned order dismissed the appeal only on the ground that the assessment orders were quashed by the Tribunal. Hence, it was of the opinion that the penalty proceedings would not be maintainable.

4. Sri.M.Dilip, learned counsel for appellant/revenue would bring to the notice of this Court that the assessment orders which were set aside by the ITAT were the subject matter of ITA No.100015/2017 and connected appeals initiated by the appellant – revenue before this Court. It is submitted that this Court by order dated 22.07.2019 in ITA No.100015/2017 and other connected matters, set aside the order of the ITAT by allowing the appeals.

Therefore, only on the said ground, he submits that the present appeal is required to be allowed.

5. However, learned counsel appearing for the respondent would submit that against the said order dated 22.07.2019 in ITA No.100015/2017 and connected matters, review petition is preferred and the said review petition is dismissed for non-compliance of office objections. It is further submitted that the applications are filed to recall the order of dismissal for non-compliance.

6. The judgment in ITA No.100015/2017 is of the year 2019 and till this date, the respondent - assessee has not brought the review petition before the Court. Therefore, as on this date, the judgment dated 22.07.2019 in ITA No.100015/2017 and connected matters prevail. Any order that would be passed in the review, could be brought to the notice of the Tribunal.

7. Be that as it may, the impugned order passed by the Tribunal setting aside impugned penalty order is solely on the ground that the assessment orders are quashed by the Tribunal. However, the orders setting aside the assessment orders by the ITAT were the subject matter of ITA No.100015/2017 and connected matters. This Court by judgment dated 22.07.2019 allowed those appeals and set aside the ITAT orders dated 18.10.2016 in ITA Nos.1355 to 1360/B/2014. Therefore, the order passed by the ITAT solely based on the assessment orders being quashed, cannot be sustained. However, it is noticed that ITAT has not gone into merits of the proceedings and other legal issues. Therefore, the matter needs to be remanded to the ITAT for consideration of legal issues on merit.

8. In the above circumstances, we deem it appropriate to remit the matter back to the Tribunal without answering the substantial questions of law raised in the present appeal. Hence, the following:-

ORDER

i. Order dated 14.05.2019 in ITA No.1799/Bang/2017 for the Assessment Year 2009-2010 is set aside and the matter is remitted back to the Tribunal for reconsideration on merits as well as on legal issues.

ii. All contentions of the parties are left open.

SD/-
(S.G.PANDIT)
JUDGE

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

MH/-
List No.: 1 Sl No.: 0