IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF MARCH, 2020

PRESENT

THE HON'BLE MR. JUSTICE ARAVIND KUMAR

AND

THE HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.T.A.NO.1/2019

BETWEEN:

M.R. PRABHAVATHY
GOKULA HOUSE
GOKULA, MATHIKERE
BENGALURU – 560 054.

…APPELLANT

(BY SRI. M. LAVA, ADVOCATE)

AND:

1. THE DEPUTY COMMISSIONER
   OF INCOME TAX
   CENTRAL CIRCLE 1(2)
   BMTC BUILDING, 4TH FLOOR
   6TH BLOCK, KORAMANGALA
   BENGALURU – 560 095.

2. THE ASSISTANT COMMISSIONER
   OF INCOME TAX
   CENTRAL CIRCLE 6 (3)(1)
   BMTC BUILDING, 4TH FLOOR
   6TH BLOCK, KORAMANGALA
   BENGALURU – 560 095.

…RESPONDENTS

(BY SRI. E.I. SANMATHI, ADVOCATE)

THIS WEALTH TAX APPEAL IS FILED UNDER SECTION 27A OF THE WEALTH TAX ACT, 1957, ARISING OUT OF ORDER DATED 24.09.2018 PASSED IN

C.O.NO.92/BANG/2018 ARISING OUT OF WTA NO.29/BANG/2018 FOR THE ASSESSMENT YEAR 2008-2009 PRAYING TO FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW AS STATED ABOVE AND ANSWER THE SAME IN FAVOUR OF THE APPELLANT AND TO ALLOW THE APPEAL OF THE APPELLANT AND SET ASIDE THE FINDINGS TO THE EXTENT AGAINST THE APPELLANT IN THE ORDER PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH BENGALURU IN CO. NO.92/BANG/2018 ARISING OUT OF WTA 29/BANG/2018 FOR THE ASSESSMENT YEAR 2008-2009 DATED 24.09.2018 VIDE ANNEXURE-A.

THIS APPEAL COMING ON FOR ADMISSION THIS DAY, ***ARAVIND KUMAR J,*** DELIVERED THE FOLLOWING:

JUDGMENT

We have heard Sri.M.Lava, learned counsel appearing for appellant and Sri.E.I.Sanmathi, learned counsel appearing for respondents.

2. We find that grounds urged, issue involved and substantial question raised in this appeal are all academic in nature, inasmuch as, substantial relief which appellant had sought for before tribunal has been granted. However, issue relating to right of the Assessing Officer to issue notice under Section 17 of the Wealth Tax Act, 1957, for re-opening the assessment has not been dealt by the tribunal, though assessee had filed

cross-objections. Hence, present appeal has been preferred by the assessee, being aggrieved by the order of rejection of cross-objections by tribunal.

3. Sri.M.Lava, learned counsel appearing for appellant is correct in contending that in the event of revenue were to come in appeal against the order of the tribunal granting relief to the assessee, appellant herein should be permitted to pursue its grievance with regard to the very jurisdiction of the Assessing Officer in issuing the notice for re-opening.

4. The issue relating to re-opening of assessment being academic in nature and as on date there being no appeal filed by the revenue against grant of relief to assessee, we do not propose to go into the right of Assessing Officer to reopen the assessment particularly in the backdrop of revenue having not filed any appeal against the order of tribunal whereunder substantial relief to the assessee has already been granted. As such, this appeal is dismissed/disposed of

with liberty to the assessee to revive this appeal in the event of revenue preferring or filing appeal against the order of tribunal dated 24.09.2019.

SD/-
JUDGE

SD/-
JUDGE

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