HC-KAR
CNR: KAHC010002712021

NC: 2026:KHC:60679-DB
ITA No. 18 of 2021
C/W ITA No. 17 of 2021
ITA No. 20 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

INCOME TAX APPEAL NO. 18 OF 2021
C/W
INCOME TAX APPEAL NO. 17 OF 2021,
INCOME TAX APPEAL NO. 20 OF 2021

IN ITA No. 18/2021:

BETWEEN:

1. THE PR. COMMISSIONER OF
INCOME TAX, CIT(A)
CENTRAL CIRCLE
C. R. BUILDING, QUEENS ROAD
BENGALURU-560001.

2. THE DEPUTY COMMISSIONER OF INCOME-TAX
CENTRAL CIRCLE-1
C R BUILDING
ATTAVARA, MANGALURU-575001.

...APPELLANTS

Digitally signed by NANJUNDACHARI
Location: High Court of Karnataka

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

AND:

MR. M. A. SIDDIQUE,
DOOR NO.17-23-1625-2,
SUPREME COTTAGE D'SILVA LANE,
HIGH LAND FALNIR,

MANGALURU-575002.
PAN: AKWPS 8837R

…RESPONDENT

(BY MISS. DR. SHEETAL BORKER, ADVOCATE FOR
SRI. MALLAHAR RAO, ADVOCATE)

THIS ITA/INCOME TAX APPEAL IS FILED UNDER SEC-260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDED DATED 17.08.2020 PASSED IN ITA NO.63/BANG/2020, FOR THE ASSESSMENT YEAR 2013-2014 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.63/BANG/2020 DATED 17.08.2020 FOR ASSESSMENT YEAR 2013-2014 ANNEXURE-C AND CONFIRM THE ORDER OF THE APPELLATE COMMISSIONER CONFIRMING THE ORDER PASSED BY THE DEPUTY COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE-1, MANGALURU.

IN ITA NO. 17/2021

BETWEEN:

1. THE PR. COMMISSIONER OF
   INCOME TAX, CIT (A)
   CENTRAL CIRCLE,
   C. R. BUILDING,
   QUEENS ROAD,
   BENGALURU-560001.

2. THE DEPUTY COMMISSIONER
   OF INCOME-TAX
   CENTRAL CIRCLE-1
   C. R. BUILDING,
   ATTAVARA,
   MANGALURU-575001.

...APPELLANTS

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

AND:

MR. M. A. SIDDIQUE,
DOOR NO.17-23-1625-2
SUPREME COTTAGE D' SILVA LANE,
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SRI. MALLAHAR RAO, ADVOCATE)

THIS ITA/INCOME TAX APPEAL IS FILED UNDER SEC-260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDED DATED 17.08.2020 PASSED IN ITA NO.64/BANG/2020, FOR THE ASSESSMENT YEAR 2014-2015 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.64/BANG/2020 FOR ASSESSMENT YEAR 2014-2015 ANNEXURE-C AND CONFIRM THE ORDER OF THE APPELLATE COMMISSIONER CONFIRMING THE ORDER PASSED BY THE DEPUTY COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE-1, MANGALURU.

IN ITA NO. 20/2021:

BETWEEN:

1. THE PR. COMMISSIONER OF INCOME TAX,
   CIT (A)
   CENTRAL CIRCLE
   C R BUILDING
   QUEENS ROAD
   BENGALURU-560001.

2. THE DEPUTY COMMISSIONER OF INCOME-TAX
   CENTRAL CIRCLE-1
   C R BUILDING,

ATTAVARA
MANGALURU-575 001.

...APPELLANTS

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

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DOOR NO. 17-23-1625-2
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MANGALURU-575002
PAN AKWPS 8837R

...RESPONDENT

(BY MISS. DR. SHEETAL BORKER, ADVOCATE AND
SRI. MALLAHAR RAO, ADVOCATE)

THIS ITA/INCOME TAX APPEAL IS FILED UNDER SEC-260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDED DATED 17.08.2020 PASSED IN ITA NO.62/BANG/2020, FOR THE ASSESSMENT YEAR 2012-2013 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.62/BANG/2020 DATED 17.08.2020 FOR ASSESSMENT YEAR 2012-2013 ANNEXURE-C AND CONFIRM THE ORDER OF THE APPELLATE COMMISSIONER CONFIRMING THE ORDER PASSED BY THE DEPUTY COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE-1, MANGALURU.

THESE APPEALS ARE 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 CHILLAKUR SUMALATHA

CNR: KAHC010002712021

ORAL JUDGMENT

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

ITA No.18/2021 relates to assessment year 2013-14, ITA No.17/2021 relates to assessment year 2014-15 and ITA No.20/2021 relates to assessment year 2012-13.

2. The assessee in all the three appeals is one Sri.M.A.Siddique. A search under Section 132 of the Income Tax Act, 1961 (for short 'the Act') was conducted on the business premises of Supreme Group on 24.11.2015 and consequently, assessment order dated 29.12.2017 was passed under Section 153(A) read with Section 143(3) of the Act in all the above three appeals. The Assessing Officer, the Deputy Commissioner of Income Tax, Central Circle-1, Mangaluru on the basis of incriminating documents seized/impounded and on the basis of evidence gathered, made additions and issued demand notice accordingly.

3. Aggrieved by the said assessment order, the respondent/assessee preferred appeal before the Commissioner of Income Tax (Appeals) (for short, 'CIT(A)') and the CIT(A) by order dated 18.10.2019, partly allowed the appeal of the respondent/assessee with an observation that the Assessing Officer could not have made additions relying on the documents which were very much available at the time of original assessment under Section 143 of the Act and he was of the further opinion that no new materials were unearthed during the course of search. He was also of the further opinion that no proceedings under Section 143 of the Act were pending and as such, no proceedings under Section 153A of the Act could have been initiated. Against the order of the CIT(A), the Revenue preferred ITA.No.63/Bang/2020 for the assessment year 2013-14, ITA.No.64/Bang/2020 for the assessment year 2014-15 and ITA.No.62/Bang/2020 for the assessment year 2012-13. The Income Tax Appellate Tribunal (for short, 'the Tribunal') by common order dated

17.08.2020 dismissed the appeals filed by the appellants/Revenue. Against which, the above three appeals are filed for the assessment years 2014-15, 2013-14 and 2012-13.

4. The above three appeals are admitted on 15.04.2021 to examine similar or identical substantial questions of law which are raised in ITA.No.18/2021, which reads as follows:

> *"(1) Whether on the facts and circumstances of the case, the Tribunal's order can be said as perverse since Tribunal has held that assessment order passed under Section 153A read with Section 143(3) of the Act is bad in law by holding that as there were no new material, assessment is not possible under Section 153A of the Act without appreciating that there was no regular assessment passed in case of assessee prior to date of search and even otherwise assessing authority is empowered to assessee or re-assess the total income of assessee in consequence to search conducted under Section 132 of the Act?*

(2) Whether on the facts and in the circumstances of the case, the Tribunal is right in law in holding that assesssment order passed under Section 153A of the Act is bad in law ignoring that conditions prescribed under Section 153A of the Act are fully satisfied to pass assessment order under said section and as such order of assessment passed in case of assessee is valid?"

5. Heard learned counsel Sri.Y.V.Raviraj as well as learned counsel Sri.Dilip.M., for appellants/Revenue and learned counsel Miss.Dr.Sheetal Borkar for Sri.Mallahar Rao.K., learned counsel for respondent/assessee. Perused the entire appeal papers.

6. Learned counsel Sri.M.Dilip for appellants/Revenue would submit that both the CIT(A) as well as the Tribunal failed to properly appreciate the material on record and without appreciating the material on record have come to a wrong conclusion. Further, learned counsel would submit that the Tribunal as well as CIT(A) finding that there were no new material is perverse

and without appreciating that there was no regular assessment. Further, learned counsel would submit that the conditions laid down under Section 153A of the Act is fully satisfied. As such, both the CIT(A) and the Tribunal could not have interfered with the assessment order. Thus, he would pray for allowing the appeals.

7. On the other hand, learned counsel Miss. Dr.Sheetal Borkar for the respondent/assessee would support the order of the CIT(A) as well as the Tribunal by contending that no new materials were found during the search and as such there is no new material for addition. Further, learned counsel would submit that there was no proceedings pending under Section 143 of the Act. As such, the appellants/Revenue could not have initiated proceedings under Section 153A of the Act. Thus, it is prayed for dismissal of the appeals.

8. Having heard the learned counsel appearing for the parties and on perusal of the entire appeal papers, we

are of the considered opinion that no substantial questions of law would arise for consideration and the substantial questions of law raised by appellant/Revenue is to be answered against the Revenue and in favour of the respondent/assessee.

9. There is no dispute that a search was conducted under Section 132 of the Act on 24.11.2015 on the business premises of the Supreme Group and the respondent/assessee was the proprietor of the Supreme Group. The CIT(A) on examination of the entire material on record has rightly recorded that the proceedings under Section 143 of the Act had been completed by the time search was conducted on the business premises of the respondent/assessee. In such circumstances, it was not open for the appellants/Revenue to initiate proceedings under Section 153A of the Act. Moreover, during the course of search, no new materials were found or unearthed to make any addition. The appellants/Revenue

has not placed on record any material to indicate unearthing of any new material during the course of search. In the facts and circumstances of the present case, the findings of either the CIT(A) or the Tribunal cannot be said to be perverse. The finding of the CIT(A) as well as the Tribunal is based on the material placed on record.

10. The Hon'ble Apex Court in the case of ***Principal Commissioner of Income-Tax, Central-3 Vs. Abhisar Buildwell (P.) Ltd. [(2023) 149 Taxmann.com 399 (SC)]*** was examining the scope of assessment under Section 153A of the Act and at paragraph 14 it is held as follows:

> *"**36.** In view of the above and for the reasons stated above, it is concluded as under:*
>
> *(i) That in case of search under Section 132 or requisition under Section 132-A, the AO assumes the jurisdiction for block assessment under Section 153-A;*
>
> *(ii) All pending assessments/reassessments shall stand abated;*

(iii) In case any incriminating material is found/unearthed, even, in case of unabated/completed assessments, the AO would assume the jurisdiction to assess or reassess the "total income" taking into consideration the incriminating material unearthed during the search and the other material available with the AO including the income declared in the returns; and

(iv) In case no incriminating material is unearthed during the search, the AO cannot assess or reassess taking into consideration the other material in respect of completed assessments/unabated assessments. Meaning thereby, in respect of completed/unabated assessments, no addition can be made by the AO in absence of any incriminating material found during the course of search under Section 132 or requisition under Section 132-A of the 1961 Act. However, the completed/unabated assessments can be re-opened by the AO in exercise of powers under Sections 147/148 of the Act, subject to fulfilment of the conditions as envisaged/mentioned under Sections 147/148 of the Act and those powers are saved.

> *The question involved in the present set of appeals and review petition is answered accordingly in terms of the above and the appeals and review petition preferred by the Revenue are hereby dismissed. No costs.*
>
> *Civil Appeals Nos. 7738-39, 7736-37, 7732-35 and 7740-43 of 2021"*

The above decision makes it abundantly clear that in case no incriminating material is unearthed during the search, the Assessing Officer cannot assess or re-assess taking into consideration the other materials in respect of completed assessments/unabated assessments.

11. Further the Tribunal during the course of its order has recorded that CIT(A) has given a categorical finding that case of the assessee squarely falls outside the purview of Section 153A of the Act because the assessment has not abated and no new material was found or unearthed during the course of search. Moreover,

it is a concurrent finding of fact recorded by the CIT(A) as well as the Tribunal.

12. The above decision would aptly apply to the fact situation of the present appeals. Following the above dictum of the Hon'ble Apex Court, the appeals are dismissed, answering the substantial questions of law against Revenue and in favour of respondent/assessee.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE

DS, NC
CT:TSM