HC-KAR

NC: 2026:KHC:63821-DB
ITA No. 63 of 2026

CNR: KAHC010222812026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF NOVEMBER, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

INCOME TAX APPEAL NO. 63 OF 2026

BETWEEN:

1. THE PR. COMMISSIONER OF INCOME TAX-2
   BMTC BUILDING
   KORMANGALA, BANGALORE

2. THE ASSISTANT COMMISSIONER
   OF INCOME TAX
   CIRCLE 4(1)(1),
   BANGALORE

…APPELLANTS

(BY SRI E.I. SANMATHI, ADVOCATE)

Digitally signed by AMBIKA H B
Location: High Court of Karnataka

AND:

1. M/S M AND M EQUIPEMENTS PVT. LTD.
   NO.242, 11TH MAIN
   2ND CROSS, III PHASE
   PEENYA INDUSTRIAL AREA
   BENGALURU – 560 058

…RESPONDENT

THIS ITA IS FILED UNDER SECTION 260-A OF THE INCOME TAX ACT, 1961, PRAYING TO DECIDE THE FOREGOING QUESTION OF LAW AND/OR SUCH OTHER QUESTIONS OF LAW AS MAY BE FORMULATED BY THE HON'BLE COURT AS DEEMED FIT AND SET ASIDE THE APPELLATE ORDER DATED 30.01.2024 PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH BANGALORE, AS SOUGHT FOR, IN THE RESPONDENT-ASSESSEE'S CASE, IN

APPEAL PROCEEDINGS IN I(IT)A NO.713/Bang/2023 FOR A.Y. 2015-16 (ANNEXURE-A) AND ETC.

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

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The Revenue has filed the present appeal under Section 260A of the Income Tax Act, 1961 [**the Act**] impugning an order dated 30.01.2024 passed by the learned Income Tax Appellate Tribunal [**ITAT**] in ITA No.713/Bang/2023 for the Assessment Year [**AY**] 2015-16.

2. The Revenue had preferred the said appeal against an order dated 28.06.2023 passed by the National Faceless Appeal Centre [**NFAC**] under Section 250 of the Act allowing the appeal preferred by the respondent [**Assessee**]. The Assessee had also filed cross objection (CO No.12/Bang/2023) in the Revenue's appeal before the learned ITAT contending that the assessment order dated 29.12.2017 passed under Section 143(3) of the Act was barred by

limitation. The learned ITAT disposed of the said cross-objection without examining it, as it dismissed the Revenue's appeal.

3. The Assessing Officer [**AO**] had passed the assessment order dated 29.12.2017 under Section 143(3) of the Act, *inter alia*, adding an amount of ₹11,59,30,375/- under Section 68 of the Act. The AO reasoned that the said amount which was reflected as an opening balance against share application money pending for allotment by one of the directors of the assessee (Sri B. Ravi Kumar Reddy) was an unexplained cash credit and, therefore, liable to be added under Section 68 of the Act.

4. Undisputedly, the said opening balance corresponded to the closing balance of the previous year (FY 2012-13) relevant to AY 2013-14. The said amount was reflected as an outstanding receipt from Sri B. Ravikumar Reddy in the final accounts as on 31.03.2013. The AO purportedly examined the records of the prior financial year, FY 2012-13, and concluded that the Assessee had not received the said amount during FY 2012-13 as it did not correspond with the amounts credited in the bank accounts during the said financial year. The AO reasoned that the closing balance

reflected on 31.03.2013 was not explained. Correspondingly, the opening balance as on 01.04.2013 also remained unexplained.

5. The Assessee disputed the correctness of the AO's finding that the amount reflected as the closing balance as on 31.03.2013 was not supported by amounts credited in the bank account and the amount credited for value. However, the NFAC did not examine the said question.

6. The Assessee also objected to the addition on the ground that it was made on the basis of the accounts of the prior financial year, which were not the subject matter of assessment; thus, the AO could not make any addition in regard to the transactions relating to FY 2012-13 in AY 2014-15.

7. The learned ITAT found no infirmity with the decision of the learned NFAC and accordingly, dismissed the Revenue's appeal. The learned ITAT also found that the issue was covered by the earlier decision of this Court in **Commissioner of Income Tax vs.**

Sridev Enterprises[1] and concurred with the order passed by NFAC.

8. The Revenue has projected the following questions for consideration of this Court:

> "1. Whether on the facts and in the circumstances of the case, the Tribunal's order is perverse in nature in deleting the addition of Rs.11,59,30,375 made by Assessing Officer by holding that the opening balance in the current assessment year cannot be considered by relying decision in case of CIT V/s Sridev Enterprises (reported in 59 taxman 439/192 ITR) ignoring that Assessing authority has not considered transaction of previous assessment year but the Assessing Authority tried to establish the correct opening balance in relevant previous years so that it would not impact on the current financial profit of the assesse.
>
> 2. Whether on the facts and in the circumstances of the case, the Tribunal's order is perverse in nature in deleting the addition of Rs.11,59,30,375 made by Assessing Officer ignoring that the said transaction in question does not pertain to any of the assessment year as same has not taken place at all between the company and Sri.B.Ravi Kumar Reddy and as such it is a bogus entry?
>
> 3. Whether on the facts and in the circumstances of the case, the Tribunal's order is perverse in nature in deleting the addition of Rs.11,59,30,375 made by Assessing Officer when the assesse failed to establish that said transaction is genuine and not bogus

[1] (1991) 59 Taxman 439 (KAR)

transaction which were actually carried out to create a cooked up story?

4. Whether on the facts and in the circumstances of the case, the Tribunal's order is perverse in nature in holding that the sale of software license did not include a right or interest in copyright, which thus did not give rise to payment of royalty and would be an income deeded to accrue in India under section 9(1)(vi) of the Act, requiring the deduction of tax at source?

4. Whether on the facts and in the circumstances of the case, the Tribunal's order is perverse in nature in not considering the fact that the mismatch in books of account and bank statement of the Company was clearly established by the Assessing Officer and it was concluded that the closing balance and the amount lent to the assesse -Company by Sri.B.Ravi Kumar Reddy does not tally?

5. Whether on the facts and in the circumstances of the case, the Tribunal's order is perverse in nature in not appreciating the factual matrix of the case and decided the matter in vague manner without appreciating the materials on record brought on record?

9. The questions raised by the Revenue are covered by the decision of the Coordinate Bench of this Court in **Commissioner of Income Tax vs. Sridev Enterprises** (*supra*). The relevant extract of the said decision is set out below:

"4. We are in agreement with the view expressed by the Tribunal. The status of the amount standing as outstanding due from Nalanda on the first day of the accounting year is the amount that stood outstanding on the last day of the previous accounting year;

> therefore, its nature and status cannot be different on the 1st day of the current accounting year, from its nature and status as on the last day of the previous account year. Regarding the past years, the assessee claims for deductions were allowed in respect of the sums advanced during those years; this could be, only on the assumption that those advances were not out of borrowed funds of the assessee. This finding during the previous years is the very basis of the deductions permitted during the past years, whether a specific finding was recorded or not. A departure from that finding in respect of the said amounts advanced during the previous year, would result in a contradictory finding; it will not be equitable to permit the revenue to take a different stand now, in respect of the amounts which were the subject-matter of previous years' assessments; consistency and definiteness of approach by the revenue is necessary, in the matter of recognising the nature of an account maintained by the assessee so that the basis of a concluded assessment would not be ignored without actually reopening the assessment. The principle is similar to the cases where it has been held that a debt which had been treated by the revenue as a good debt in a particular year cannot subsequently be held by it to have become bad prior to that year."

10. It is clear that the AO's findings were based on examination of the records of the previous year ending on 31.03.2013. Thus, according to the AO, the amount credited in the accounts for the previous year ending 31.03.2013 remained unexplained. Plainly, any addition under Section 68 of the Act was required to be made in the Assessment Year relevant to that previous year.

11. In this view, we find no infirmity in the learned NFAC and learned ITAT in holding that the addition under Section 68 of the Act could not have been made in AY 2014-15 on the basis of examination of the books and a finding of unexplained credit during FY 2012-13. No substantial question of law arises for consideration of this court.

12. We also note an inordinate delay of 636 days in filing the present appeal.

13. The appeal is, accordingly, dismissed both on the ground that no substantial question of law arises as well as on the ground of delay.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(K.S. HEMALEKHA)
JUDGE

AHB
List No.: 2 Sl No.: 2