HC-KAR

NC: 2026:KHC:59380-DB
ITA No. 164 of 2026

CNR: KAHC010655372026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

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

INCOME TAX APPEAL NO. 164 OF 2026

BETWEEN:

1. THE COMMISSIONER OF INCOME TAX
(INTERNATIONAL TAXATION)
BMTC BUILDING, 80 FEET ROAD
6TH BLOCK, KORAMANGALA
BENGALURU - 560 095

2. THE DEPUTY COMMISSIONER OF INCOMET-TAX
(INTERNATIONAL TAXATION)
CIRCLE -2(1), 4TH FLOOR
INCOME TAX DEPARTMENT
BMTC BUILDING, 80 FEET ROAD
KORAMANGALA
BENGALURU - 560 095

…APPELLANTS

(BY SRI/SMT. NIRMAL MATHEW, ADVOCATE FOR
SRI E.I. SANMATHI, ADVOCATE)

Digitally signed by SRIDEVI S
Location: High Court of Karnataka

AND:

1. M/S. PALMER INVESTMENT GROUP LTD.,
SEA MEADOW HOUSE
BLACKBURNE HIGHWAY
P.O. BOX 116
ROAD TOWN

TORTOLA BRITISH VIRGIN
ISLANDS 999999
FOREIGN, UNITED KINGDOM

…RESPONDENT

THIS INCOME TAX APPEAL IS FILED UNDER SEC.260-A OF INCOME TAX ACT 1961, PRAYING TO ALLOW THE APPEAL AND SET ASIDE THE ORDER DATED.01.04.2026 PASSED BY THE INCOME TAX APPELLATE TRIBUNAL 'C' BENCH, BANGALORE IN IT(IT)A NO.2431/Bang/2024 FOR ASSESSMENT YEAR 2014-15 & ETC.

THIS APPEAL, COMING ON FOR ADMISSION, 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 the order dated 01.04.2026 passed by the learned Income Tax Appellate Tribunal [**Tribunal**] in IT(IT)A No. 2431/BANG/2024 for Assessment Year [**AY**] 2014-15. The Revenue had filed the aforementioned appeal challenging the order dated 13.11.2024 passed by the learned Commissioner of Income Tax (Appeals)-12,

Bengaluru [**CIT (A)**] dated 13.11.2024 in respect of penalty proceedings under Section 271(1)(c) of the Act for AY 2014-15.

2. The Respondent [**Assessee**] is a non-resident foreign company, and had filed its Return of income on 31.03.2015. The Returns were selected for scrutiny and notices under Section 143(2) and 142(1) were issued. During the course of the proceedings, it was found that the Assessee had sold 43,76,771 shares of United Spirits Ltd [**USL**] to Relay BV [**Relay**] at the rate of ₹1,440/- per share. The Assessing Officer [**AO**] made a reference to the Transfer Pricing Officer [**TPO**] for computing the Arm's Length Price [**ALP**] in respect of the said transaction, assuming the same to be an international transaction. The learned TPO passed an order making a Transfer Pricing Adjustment [**TPA**] of ₹262,07,66,707/-, which according to the TPO was the ALP of the shares of USL as against declared sale consideration of ₹135,37,05,283/-.

3. The AO issued a draft assessment order, which was challenged by the assessee before the Dispute Resolution Panel [**DRP**]. However, the DRP did not accept the objections. The

Assessee filed an appeal before the learned Tribunal challenging the assessment order but did not succeed. The Assessee preferred an appeal before this Court – ITA Nos. 452/2023 and 456/2023. The said appeals stand admitted to consider the following substantial questions of law:

1. Whether, on the facts and in the circumstances of the case and on the grounds urged, the Appellant and Relay B.V which were unrelated at the time of execution of the SPA and the transfer of shares of USL can be said to be 'associated enterprises' as per section 92A(2) of the Act, solely on account of the subsequent acquisition of shares in USL by Relay B.V crossing the threshold of 26% of the share capital, and consequently, the transaction deemed to be an 'international transaction' within the meaning of section 92B of the Act?

2. Whether, on the facts and in the circumstances of the case and on the grounds urged, even if Chapter X is held to be applicable, the transaction, is essence, entered into between two unrelated parties, the contractually agreed price can only represent the arm's length price?

3. Whether, on the facts and in the circumstances of the case and on the grounds urged, the finding of the Tribunal that the Appellant has transferred its controlling interest in USL to Relay B.V is contrary to the material on record and thus is perverse?

4. Whether, on the facts, and in the circumstances of the case and on the grounds urged, the Tribunal was right in upholding the adoption of the DCF method by the TPO for computation of the ALP of the transfer of the shares by the Appellant, although the same is not one of the

prescribed methods under the Act and the Rules and comparable uncontrolled prices are available in the form of prices quoted on the stock exchange and/or preferential allotment by USL to Relay and open offer to the public?

4. As noted above, one of the principal questions is whether the transaction of sale of shares was an international transaction within the meaning of Section 92(B) of the Act.

5. The AO had thereafter issued penalty proceedings by issuing a notice under Section 274 of the Act. It is the Assessee's case that no penalty could be levied as it had neither concealed any income nor furnished any inaccurate particulars. The Revenue had estimated the income by treating the transaction of sale of shares as an international transaction, which was seriously disputed by the Assessee. This Court is considering the said question as a substantial question of law. The Assessee contented that since the question involved is a debatable question of law, no penalty could be levied.

6. The AO did not accept the Assessee's response and confirmed the penalty, holding that the assessee had deliberately furnished inaccurate particulars.

7. The learned CIT(A) noted that this Court had admitted the appeals on the question of law as set out above. It was also of the view that the issue was contentious and therefore there was no occasion to levy a penalty. The learned CIT(A) also referred to the decision of this Court in **CIT v. Dr. Harsha N Biliangady [2017] 79 taxman.com 376 (Karnataka)**, in support of its view. Penalty under Section 271(1)(c) could be imposed for concealment of material particulars or furnishing inaccurate particulars. In the aforesaid decision, this Court held that since an appeal has been admitted on substantial questions of law, the same indicates that it is debatable question. The relevant extract of the said decision as noted by the CIT(A) set out below :

> 5.1 The appellant challenged the quantum appeal order of the ITAT before the Karnataka High Court on 06.07.2023. The Karnataka High Court in its order dated 29.08.2023 admitted the appeal and framed the substantial questions of law. The appellant contended that once High Court admitted the appeal the issue becomes debatable and accordingly penalty cannot be levied. The appellant relied on Karnataka High Court decision in the case of CIT vs Dr. Harsha N. Biliangady [2017] 79 taxmann.com 376 (Karnataka) wherein it is held that:
>
> > *"8. We do not find any reason to hold that the finding given and the conclusion arrived at by the Tribunal as incorrect. We are also of the*

> *opinion that where penalty is imposed in respect of any addition where the High Court has admitted the appeal on substantial question of law, then the sustainability of the addition itself becomes debatable, and in such circumstances penalty cannot be levied under Section 271(1)(c) of the Act. Penalty can only be imposed for concealment of material particulars or furnishing of inaccurate particulars by the assessee. In the facts of the present case, we are of the view that the assessee cannot be held guilty of the concealment of any material particulars of his income or having furnished inaccurate particulars of such income, so as to attract provisions of Section 271(1)(c) of the Act.*
>
> *9. Appeal is accordingly dismissed at the stage of admission itself as no substantial question of law arises for our consideration."*

8. In view of the aforesaid decision, the learned CIT(A) allowed the Assessee's appeal. The learned Tribunal upheld the view of the learned CIT(A).

9. The learned counsel appearing for the appellant submits that Explanation 7 to Section 271(1)(c) of the Act provides that if any amount is added or disallowed in computing the total income under Section 92 (C)(4), the said amount would be treated to represent income in respect of which particulars have been concealed or inaccurate particulars have been furnished, unless the assessee

proves the stated exception. He submitted that in view of Explanation 7, the impugned order as well as the order passed by CITA is required to be set aside.

10. Whilst Explanation 7 Section 271(1)(c) clarifies that if any addition or any disallowance is made in computing the total income in respect of an international transaction or a specified domestic transaction, the same would be considered as representing income in respect of which particulars have been concealed, unless the price charged or any such transaction is computed in accordance with the provisions of Section 92(C) of the Act and the manner prescribed under that Section in good faith and with due diligence.

11. However, in the present case, whether the Assessee entered into an international transaction is itself debatable. According to the Assessee, Relay was not an Associated Enterprise under Section 92A of the Act at the material time and became one on consummation of the transaction. Plainly, the question involved is debatable, and there appears to be no cavil that the Assessee had

fully disclosed the transaction in question. Thus the impugned order setting aside the penalty proceedings cannot be faulted.

12. The learned counsel also fairly states that this question is covered by the decision of this court in **Dr. Harsha N Biliangady** (*supra*). Since it is not disputed that the question is covered by the earlier decision of this Court in **Dr. Harsha N Biliangady** (*supra*), and **CIT V. Ankita Electronics (P) Ltd**., **(2015) 379 ITR 529 (Karnataka)**, no substantial question of law arises for consideration of this court. The present appeal is, accordingly, dismissed.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(K.S. HEMALEKHA)
JUDGE

SD
List No.: 2 Sl No.: 18