IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF JANUARY, 2015

PRESENT

THE HON' BLE MR. JUSTICE N. KUMAR

AND

THE HON' BLE MR. JUSTICE B. VEERAPPA

INCOME TAX APPEAL No.117/2009

BETWEEN:

1. THE COMMISSIONER OF INCOME-TAX
C.R. BUILDING,
QUEENS ROAD,
BANGALORE

2. THE ASSISTANT COMMISSIONER OF INCOME-TAX,
CIRCLE-7(1),
C.R. BUILDING
QUEENS ROAD
BANGALORE.

... APPELLANTS

(BY SRI K V ARAVIND, ADVOCATE)

AND:

M/S. GINA ENTERPRISES
No.45, 11TH CROSS, 1ST STAGE
INDIRANAGAR
BANGALORE-560 038.

... RESPONDENT

(BY SRI B.G. CHIDANANDA URS, ADVOCATE)

THIS ITA IS FILED UNDER SECTION 260-A OF THE INCOME TAX ACT, 1961 ARISING OUT OF ORDER DATED 08.10.2008 PASSED IN ITA NO. 155/BANG/2007 AND ITA NO.175/BANG/2007, FOR THE ASSESSMENT YEAR 2003-04, PRAYING TO FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED THEREIN AND TO ALLOW THE APPEAL AND SET ASIDE THE ORDERS PASSED BY THE ITAT, BANGALORE IN ITA No.155/BANG/2007 AND ITA No.175/BANG/2007 DATED 08.10.2008 AND CONFIRM THE ORDER PASSED BY THE ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE-7(1), BANGALORE, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS ITA COMING ON FOR HEARING THIS DAY, N. KUMAR, J., DELIVERED THE FOLLOWING:

JUDGMENT

The revenue has preferred this appeal against the order passed by the Tribunal granting relief to the assessee.

2. The net tax effect, which is the subject matter of this appeal, is less than Rs.10,00,000/-. In view of the instructions bearing No.3/2001 issued by the CBDT which has been interpreted by this Court to

be retrospective in operation in the case of ***COMMISSIONER OF INCOME TAX vs RANKA & RANKA 352 ITR PAGE 121,*** the appeal is not maintainable.

3. However, it is submitted that the revenue has challenged the judgment in the Apex Court and it is pending consideration. In the event the revenue succeeding in the appeal before the Apex Court, liberty is reserved to the revenue to seek for revival of this appeal. As on today, in view of the judgment, the appeal is not maintainable. Accordingly, appeal is dismissed.

Sd/-
JUDGE

Sd/-
JUDGE

Sbs*