IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JANUARY, 2024

PRESENT

THE HON'BLE MR. JUSTICE P.S.DINESH KUMAR

AND

THE HON'BLE MR. JUSTICE T.G. SHIVASHANKARE GOWDA

INCOME TAX APPEAL NO. 441 OF 2023
C/W
INCOME TAX APPEAL NO. 437 OF 2023

IN ITA NO.441 OF 2023

BETWEEN:

1. THE COMMISSIONER OF INCOME TAX
INTERNATIONAL TAXATION
4TH FLOOR, BMTC BUILDING
80 FEET ROAD, KORMANGALA
BENGALURU-560 095

2. THE ASSISTANT COMMISSIONER OF INCOME TAX
INTERNATIONAL TAXATION
CIRCLE 1(2), 4TH FLOOR
BMTC BUILDING
80 FEET ROAD, KORMANGALA
BENGALURU-560 095 ...APPELLANTS

Digitally signed by YASHODHA N
Location: High Court of Karnataka

(BY SHRI. M. DILIP, STANDING COUNSEL)

AND:

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M/S. IBIDEN SINGAPORE PTE LTD
INDIA BRANCH OFFICE
NO.8, GROUND FLOOR
NITESH TIME SQUARE
M.G.ROAD, BENGALURU-560 001
PAN:AABCI 8919E ...RESPONDENT

(BY SMT. MANASA ANANTHAN, ADVOCATE FOR
SMT. TANMAYEE RAJKUMAR, ADVOCATE)

THIS ITA IS FILED UNDER SEC.260-A OF THE INCOME TAX ACT, 1961, PRAYING TO FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED THEREIN AND ALLOW THE APPEAL AND SET ASIDE THE ORDERS PASSED BY THE INCOME-TAX APPELLATE TRIBUNAL, BENGALURU IN IT(IT)A NO.782/BANG/2022 DATED 06.12.2022 FOR ASSESSMENT YEAR 2016-2017 ANNEXURE-C AND CONFIRM THE ORDER OF THE DRP CONFIRMING THE ORDER PASSED BY THE ASST. COMMISSIONER OF INCOME TAX, INTERNATIONAL TAXATION, CIRCLE- 1(2), BENGALURU AND ETC.

IN ITA NO.437 OF 2023

BETWEEN:

1. THE COMMISSIONER OF INCOME TAX
INTERNATIONAL TAXATION
4TH FLOOR, BMTC BUILDING
80 FEET ROAD, KORMANGALA
BENGALURU-560 095

2. THE ASSISTANT COMMISSIONER OF INCOME TAX
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PASSED BY THE INCOME-TAX APPELLATE TRIBUNAL, BENGALURU IN IT(IT)A NO.783/BANG/2022 DATED 06.12.2022 FOR ASSESSMENT YEAR 2017-2018 ANNEXURE-C AND CONFIRM THE ORDER OF THE DRP CONFIRMING THE ORDER PASSED BY THE ASST. COMMISSIONER OF INCOME TAX, INTERNATIONAL TAXATION, CIRCLE- 1(2), BENGALURU AND ETC.

THESE ITAs, COMING ON FOR *ORDERS*, THIS DAY, **P.S.DINESH KUMAR, J.**, DELIVERED THE FOLLOWING:

JUDGMENT

These appeals by the Revenue challenging the common order dated 06.12.2022 in ITAs No.782 & 783/Bang/2022 passed by the ITAT[1], "C" Bench, Bangalore, have been admitted to consider following question of law:

> *"1. Whether on the facts and in the circumstances of the case, the Tribunal's order can be said as perverse in nature in quashing re-assessment orders passed by assessing officer for A.Y. 2016-17, 2017-18 and 2018-19 on the ground that said orders are passed without issuing notice under section 143(2) of the Act ignoring that even if same is not issued, the proceeding cannot be held as invalid as issuance of notice under section 143(2) is not mandatory?*
>
> *2. Whether on the facts and in the circumstances of the case, the Tribunal's order can be said as perverse in nature in quashing re-assessment orders passed by assessing*

[1] Income tax Appellate Tribunal, Bengaluru Bench

officer for A.Y. 2016-17, 2017-18 and 2018-19 on the ground that said orders are passed without issuing notice under section 143(2) of the Act ignoring that even if same is not issued, re-assessment orders cannot be held as invalid as assesse has contested the on merits and not objected to same at earlier stage?"

2. Heard Shri. M. Dilip, learned Standing Counsel for the appellants-Revenue and Smt.Manasa Ananthan, learned Advocate for the respondent-Assessee.

3. At the outset, Smt.Manasa Ananthan submits that issue involved in these appeals is covered by the decision of this Court in *Commissioner of Income Tax and another Vs. M/s C.Ramaiah Reddy*[2] holding the question of law in assessee's favour.

4. The said submission is not disputed by Shri Dilip, in his usual fairness.

[2] ITA No.192/2012 DD 24.06.2020

5. In view of the above, the following:

ORDER

(i) Appeals are ***dismissed*;** and

(ii) The substantial questions of law are answered in favour of the Assessee and against the Revenue.

No costs.

Sd/-
JUDGE

Sd/-
JUDGE

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List No.: 1 Sl No.: 32