NC: 2024:KHC:22602-DB
RP No. 737 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JUNE, 2024

PRESENT

THE HON'BLE MR JUSTICE S SUNIL DUTT YADAV

AND

THE HON'BLE MRS JUSTICE M G UMA

REVIEW PETITION NO. 737 OF 2022

IN

I.T.A.NO.155/2017

BETWEEN:

1. THE COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE, C.R. BUILDING, QUEENS ROAD, BANGALORE - 560 001

2. THE DEPUTY COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE-6(3)(2), PRESENT ADDRESS DCIT, CENTRAL CIRCLE-1(4), C.R. BUILDING, QUEENS ROAD, BANGALORE - 560 001

...PETITIONERS

(BY SRI. M. DILIP, ADVOCATE)

AND:

SRI. S.M. KAMAL PASHA
#3, 4TH MAIN,
JAYAMAHAL EXTENSION,
BENGALURU - 560 046.

...RESPONDENT

Digitally signed by BHARATHI S
Location: high court of karnataka

THIS REVIEW PETITION IS FILED UNDER ORDER 47 RULE 1 R/W SECTION 114 OF CPC, PRAYING TO I) REVIEW / RECALL THE ORDER DATED 02/08/2022 PASSED BY THIS HONBLE COURT IN ITA NO. 155/2017. II) TO PASS SUCH OTHER SUITABLE ORDERS AS

THIS HONBLE COURT DEEMS FIT TO BE GRANTED IN THE FACTS AND CIRCUMSTANCES OF THE CASE IN THE INTEREST OF JUSTICE AND EQUITY.

THIS REVIEW PETITION, COMING ON FOR ORDERS, THIS DAY, ***S SUNIL DUTT YADAV J.,*** THE COURT PASSED THE FOLLOWING:

ORDER

IA No.1/2023 has been filed seeking to recall the order dated 03.03.2023 and to restore the review petition. It is stated that ITA was dismissed in light of failure to comply with the office objections.

2. The application IA No.2/2023 seeking condonation of delay in filing the application for recalling the order dated 03.03.2023 is filed.

3. At the time of hearing of the applications, it is brought to the notice of this Court that the Hon'ble Apex Court in the case of ***Principal Commissioner of Income Tax, Central Vs. Abhisar Buildwell Pvt. Ltd.,*** reported in ***(2024) 2 SCC 433*** has laid down that the proceedings under Section 153-A can be initiated only if incriminating material is found during the course of search.

4. It is submitted that the Division Bench in its order has also arrived at the same conclusion, which now finds affirmation by the subsequent judgment of the Hon'ble Apex Court. If that were to be so, even on merits, no grounds are made out for considering the review petition. Accordingly, no purpose would be served by issuing notice on IA No.2/2023 to the private assessee.

5. Accordingly, the pending applications are rejected as not meriting consideration. Consequently, the review petition stands ***rejected***.

Sd/-
JUDGE

Sd/-
JUDGE

PN
List No.: 1 Sl No.: 8