HC-KAR

NC: 2025:KHC:38487-DB
ITA No. 261 of 2021
C/W ITA No. 264 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF SEPTEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

INCOME TAX APPEAL No. 261 OF 2021

C/W

INCOME TAX APPEAL No. 264 OF 2021

IN ITA No. 261/2021

BETWEEN:

1. PR. COMMISSIONER OF INCOME TAX -2
   BMTC COMPLEX, KORAMANGALA,
   BENGALURU.

2. THE DEPUTY COMMISSIONER OF INCOME TAX
   CIRCLE - 4(2)(1),
   BMTC COMPLEX, KORMANGALA,
   BENGALURU.

...APPELLANTS

(BY SRI. SANMATHI E.I., SENIOR STANDING COUNSEL)

Digitally signed by VALLI MARIMUTHU
Location: HIGH COURT OF KARNATAKA

AND:

M/S. YESHODA ELECTRICALS,
NO.25, Y.NO.8/2, AMBALIPURA VILLAGE,
SARJAPURA ROAD, BENGALURU - 560 034
PAN. AAAFY0757E

...RESPONDENT

(BY SMT. KRISHIKA VAISHNAV, ADVOCATE FOR
SRI. A.MAHESH CHOWDHARY, ADVOCATE)

THIS ITA IS FILED UNDER SECTION 260A OF THE INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 03.02.2021 PASSED IN ITA No.1176/BANG/2016, FOR THE ASSESSMENT YEAR 2007-2008, PRAYING TO DECIDE THE FOREGOIND QUESTION OF LAW AND OR SUCH OTHER QUESTIONS OF LAW AS MAY BE FORMULATED BY THE HON'BLE COURT AS DEEMED FIT. SET ASIDE THE APPELLATE ORDER DATED 03.02.2021 PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH, BENGALURU, AS SOUGHT FOR, IN THE RESPONDENT-ASSESSEE'S CASE, IN APPEAL PROCEEDINGS No.ITA No.1176/BANG/2016 (ANNEXURE-A) FOR A.Y.2007-08 & ETC.

IN ITA No. 264/2021

BETWEEN:

1. PR.COMMISSIONER OF INCOME TAX-2
   BMTC COMPLEX, KORAMANGALA,
   BENGALURU.

2. THE ASSISTANT COMMISSIONER OF INCOME TAX
   CIRCLE - 10 (1) BMTC COMPLEX,
   KORMANGALA,
   BENGALURU.

...APPELLANTS

(BY SRI. SANMATHI E.I., SENIOR STANDING COUNSEL)

AND:

M/S. YESHODA ELECTRICALS,
NO.25, Y.NO.8/2
AMBALIPURA VILLAGE,
SARJAPURA ROAD,
BENGALURU - 560 034
PAN. AAAFY0757E

...RESPONDENT

(BY SMT. KRISHIKA VAISHNAV, ADVOCATE FOR
SRI. A.MAHESH CHOWDHARY, ADVOCATE)

THIS ITA IS FILED UNDER SECTION 260A OF THE INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 03.02.2021 PASSED IN ITA No.1175/BANG/2016, FOR THE ASSESSMENT YEAR 2007-2008, PRAYING TO DECIDE THE FOREGOIND QUESTION OF LAW AND OR SUCH OTHER QUESTIONS OF LAW AS MAY BE FORMULATED BY THE HON'BLE COURT AS DEEMED FIT. SET ASIDE THE APPELLATE ORDER DATED 03.02.2021 PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH, BENGALURU, AS SOUGHT FOR, IN THE RESPONDENT-ASSESSEE'S CASE, IN APPEAL PROCEEDINGS No.ITA No.1175/BANG/2016 (ANNEXURE-A) FOR A.Y.2007-08 & ETC.

THESE APPEALS COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE MR. JUSTICE K. V. ARAVIND

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE K.V. ARAVIND)

Heard Sri E.I. Sanmathi, learned Senior Standing Counsel for the appellants-Revenue, and Smt. Krishika Vaishnav, learned counsel for Sri A. Mahesh Chowdhary, respondent-Assessee.

2. These appeals filed by the Revenue are under Section 260A of the Income Tax Act, 1961 (hereinafter referred to as the ‘Act’), impugning the common order dated 03.02.2021 in

ITA No.1175/Bang/2016 and ITA No.1176/Bang/2016 for the Assessment Year 2007-08, passed by the Income Tax Appellate Tribunal, 'C' Bench, Bengaluru (hereinafter referred to as the 'ITAT').

3. Both appeals are admitted to consider the following substantial questions of law:

"(1) "Whether the Tribunal was right in law in quashing re-assessment order by holding that notice issued is unsigned when same is curable under section 292B of the Act which provides for cure of any mistake, defect or omission in such notice"?

(2) "Whether the order passed by Tribunal is perverse in law as Tribunal has failed to observe that re-assessment order passed in present case is valid since assessee failed to raise the issue of immediately on receipt of notice under section 148 of the Act but deliberately raised issue of validity or notice only after one so that assessing authority had no time to re-issue the same within period of limitation"?

(ii) "Whether on the facts and in the circumstances of the case, the Tribunal's order can be said as perverse in nature as Tribunal failed to consider the conduct of assessee which resulted in passing

order under section 148 read with section 144 of the Act?"

4. The facts, in brief, are that the Assessing Officer issued a notice under Section 148 of the Act on 22.03.2012, reopening the assessment. The notice was served on the Assessee; however, no return was filed in response. The Assessee filed objections dated 22.03.2013, contending that the reassessment proceedings initiated were not in accordance with law. The Assessing Officer completed the assessment under Sections 144 read with 147 of the Act on 25.03.2013. The Assessee preferred an appeal before the Commissioner of Income Tax (Appeals) (hereinafter referred to as 'CIT(A)'). The CIT(A), by order dated 29.03.2016, partly allowed the appeal validating the notice under Section 148 but setting aside the addition made under Section 40(a)(ia) of the Act. Thereafter, the Assessee preferred a further appeal before the Tribunal. The Tribunal, after considering the contentions urged by the Assessee, held that a notice under Section 148 of the Act, without the signature of the Assessing Officer, does not constitute a valid notice in the eyes of law. Consequently, the Tribunal set aside the assessment order.

5. Sri E.I. Sanmathi, learned Senior Standing Counsel, appearing for the appellants-Revenue, submits that the issue and service of the notice dated 22.03.2012 under Section 148 of the Act are not in dispute. Learned Senior Standing Counsel further submits that, once the ingredients of Section 148 of the Act are satisfied in the notice, the same cannot be invalidated merely for the absence of the signature of the Assessing Officer. He submits that the Assessee did not raise any objection during the course of the assessment proceedings regarding the validity of the notice under Section 148 of the Act. Learned Senior Standing Counsel also contends that any defect in the notice, if at all, is covered under Section 282A of the Act. In view of the above, he submits that the order of the Tribunal is unsustainable

6. *Per contra*, Smt. Krishika Vaishnav, learned counsel for Sri A. Mahesh Chowdhary, learned counsel for the respondent-Assessee, submits that unless a notice is issued in the manner recognized by law, it does not constitute a valid notice and is, therefore, liable to be held invalid. Learned counsel contends that a notice issued without the signature of the Assessing

Officer cannot be sustained. She further submits that the validity of a notice cannot be determined based on the conduct of the Assessee. Learned counsel points out that the Assessee, at the earliest opportunity, raised an objection to the notice under Section 148 of the Act, contending that it was not in conformity with the provisions of law. She further submits that once a notice is invalid in the eyes of law, it cannot be rendered valid merely because no objection was raised earlier. Learned counsel submits that the order of the Tribunal is, therefore, justified and prays that the Revenue's appeal be dismissed.

7. On consideration of the submissions of the respective counsels for the parties, the record indicates the undisputed fact that a notice under Section 148 of the Act was issued on 22.03.2012 for the Assessment Year 2007-08, and the said notice was not signed by the Assessing Officer.

7.1 It is well settled that any notice issued without the requisite signature of the issuing authority cannot constitute a valid notice under law. The mere fact that the Assessee did not raise an objection cannot, by itself, validate a notice that is otherwise invalid. The notice under Section 148 of the Act is a

jurisdictional notice, and any defect therein cannot be ignored. Non-signing of a jurisdictional notice is a serious defect, which renders the notice invalid. Section 148 of the Act mandates the issuance of the notice, and such issuance is complete only when the notice bears the signature of the issuing authority.

8. The Revenue has sought to rely on Section 282A of the Act to validate the unsigned notice. On its plain reading, Section 282A requires that a notice issued under the Act by the Income Tax Authority must be signed. Reliance is placed on sub-section (2) of Section 282A, which provides that every notice issued, served, or given for the purposes of the Act by any Income Tax Authority shall be deemed to be authenticated if the name and office of a designated Income Tax Authority is printed or otherwise written thereon. A reading of this sub-section, however, clearly shows that it does not dispense with the requirement of signing the notice by the Income Tax Authority. Therefore, reliance on Section 282A offers no assistance to the Revenue.

9. Reliance on the judgment of the Bombay High Court in ***ZF Steering Gear (India) Ltd. v. Assistant Commissioner of***

Income-tax, ***[2024] 167 Taxmann.com 663 (Bombay)***, is not applicable to the present case. In that case, an unsigned notice was issued, and the Bombay High Court held that the Assessee ought to have filed objections to the notice under Section 148 of the Act and directed the Assessing Officer to dispose of such objections. The Court did not hold that the unsigned notice was valid. Therefore, the said judgment is not applicable to the facts of the present case.

10. The Revenue has placed reliance on the judgment of the Delhi High Court in ***Sky Light Hospitality LLP v. Assistant Commissioner of Income Tax***, ***[(2018) 254 Taxman 0109] (Delhi)***, to contend that defects in a notice arising from human errors or mistakes cannot invalidate proceedings which are otherwise valid. However, the factual position before the Delhi High Court is not identical to the facts of the present case. Accordingly, the said judgment offers no assistance to the Revenue.

11. The Tribunal, after noticing the undisputed fact that the notice under Section 148 of the Act was issued and served without the signature of the Assessing Officer, observed that

the Assessee raised objections at the earliest opportunity, which was the very next date. The Assessing Officer, however, proceeded to complete the assessment without considering the Assessee's objections. As rightly held by the Tribunal, a notice under Section 148 of the Act being a jurisdictional notice, any foundational defect cannot be ignored. In view of the above, the Tribunal was justified in invalidating the assessment order.

12. In view of the foregoing reasons, the following:

Order

(i) The appeals are ***dismissed***.

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

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(K. V. ARAVIND)
JUDGE

MV
List No.: 1 Sl No.: 33