IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF JUNE, 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE RAJESH RAI K

INCOME TAX APPEAL NO. 54 OF 2025

BETWEEN:

SRI. KUDLUR RAMASWAMY SATHYANARAYANA
S/O. LATE SRI K V RAMASWAMY,
AGED ABOUT 64 YEARS,
RESIDING AT NO. 1036-20,
4TH MAIN, VIDYARANYAPURAM,
MYSURU- 570 023.

HAVING OFFICE AT
NO.30, MUDA COMPLEX,
OPPOSITE SUB-REGISTRAR OFFICE,
RAMAKRISHNA NAGAR,
MYSURU - 570 023.

...APPELLANT

(BY SMT. VANI H.,ADVOCATE)

Digitally signed by NANJUNDACHARI
Location: HIGH COURT OF KARNATAKA

AND:

THE ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE, NAZABAD,
MYSURU - 570 010.

...RESPONDENT

(BY SRI. DILIP.M, ADVOCATE FOR
SRI.Y.V.RAVI RAJ, ADVOCATE)

THIS INCOME TAX APPEAL UNDER SEC.260-A OF INCOME TAX ACT 1961, PRAYING TO ALLOW THE APPEAL AND SET ASIDE THE IMPUGNED ORDER OF THE INCOME TAX APPELLATE TRIBUNAL PASSED IN ITA NO.1130/BANG/2024 RELATING TO ASSESSMENT YEAR 2014-15.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR ORDER ON **11.06.2026** COMING ON THIS DAY, ***S.G.PANDIT J.,*** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
AND
HON'BLE MR. JUSTICE RAJESH RAI K

CAV JUDGEMENT

(PER: HON'BLE MR. JUSTICE S.G.PANDIT)

This Income Tax Appeal under Section 260A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') is filed by the assessee, Sri. Kudlur Ramaswamy Sathyanarayana, challenging the order of the Income Tax Appellate Tribunal "C" Bench, Bangalore (hereinafter referred to as 'the Tribunal') dated 29.11.2024 in ITA No.1130/Bang/2024 for the assessment year (hereinafter referred to as 'AY') 2014-15.

2. The brief facts giving rise to the appeal are as follows:

A search and seizure action under Section 132 of the Act was conducted in the premises of the assessee on 04.02.2015, wherein several incriminating materials were found. A return of income (hereinafter referred to as 'ITR')

under Section 139(1) of the Act was filed by the assessee declaring an income of Rs. 81,26,510/- on 31.03.2015. Subsequently, in response to the notice issued under Section 153A(1)(a) of the Act on 11.08.2015, the assessee filed the ITR declaring an income ofRs.81,26,510/-. The assessment order under Section 143(3) r.w.s. 153A of the Act was passed by the Respondent No.1 (hereinafter referred to as 'AO')on 30.11.2016, making an addition of Rs.3,12,00,000/-, assessing the total income of the assessee to be Rs.3,93,26,506/-, which included an addition of Rs.1,50,00,000/- under section 69 of the Act as unexplained investment in convention hall. This addition of Rs.1,50,00,000/- forms the genesis of the present appeal before us.

3. Aggrieved by the additions made by the Respondent No.1, the assessee filed appeal before the Commissioner of Income Tax (Appeals)(hereinafter referred to as 'CIT(A)'). Vide Order dated 31.01.2024, the appeal filed by the assessee was partly allowed, deleting the addition made towards unexplained investment to the

tune of Rs.1,50,00,000/-, holding that the statement made under Section 132(4) admitting to the said income has been subsequently retracted and explained vide reply to the show cause notice dated 27.10.2016.

4. Challenging the Order of the CIT(A) dated 31.01.2024, the Revenue was in appeal before the Tribunal. By the impugned order dated 29.11.2024, the Tribunal partly allowed the appeal filed by the Revenue and restored the addition of Rs.1,50,00,000/- made under Section 69 of the Act as unexplained investments. Challenging the order of the Tribunal dated 29.11.2024, the assessee has filed this appeal under Section 260A of the Act.

5. This appeal was admitted on 11.03.2025 to examine the following substantial questions of law:

i. Whether on the facts and circumstances of the case, the findings of the Appellate Tribunal that the Statement recorded under Section 132(4) of the Income Tax Act, cannot be discarded even when appellant has retracted it subsequently, are perverse and contrary to the law laid down by the

Hon'ble Apex Court in Pullangode Rubber Products Co. Ltd Vs State of Kerala reported in (1973) 91 ITR 18?

ii. *Whether on the facts and circumstances of the case, the findings of the Appellate Tribunal that the retraction of Statement recorded under Section 132(4) of the Income Tax Act, was belated and hence cannot be considered valid are perverse and contrary to the income of return filed on 31.3.2015 by appellant and by the partnership firm?*

iii. *Whether on the facts and circumstances of the case, the findings of the Appellate Tribunal in restoring the addition of Rs. 1,50,00,000/- by setting aside the order of First Appellate Authority in the absence of any corroborative evidence placed by Respondent supporting such addition, is illegal and contrary to law?*

iv. *Whether on the facts and circumstances of the case, the Appellate Tribunal is justified in restoring the addition of Rs. 1,50,00,000/- ignoring the investment disclosed in the books of accounts of the partnership Firm M/s. Bhagirathi Enterprises where the appellant is a partner, which results in voluntary disclosure of income not amounting to any part of undisclosed investment?*

6. Heard Smt. Vani H, learned counsel for the assessee and learned counsel Sri. Dilip M for Sri. Y V Raviraj, learned counsel for the Revenue.

7. Learned counsel for the assessee, Smt. Vani H has submitted that the Tribunal erred in restoring the addition of Rs.1.5 crores as unexplained investment in his individual capacity. It is submitted that addition of Rs.1.5 crores was made by the AO without any basis or documentary evidence, but solely on the basis of the admission statement given by the assessee during search under 132(4) of the Act. It is submitted that the Tribunal as well as the AO, in complete disregard to the various decisions of the Hon'ble Apex Court as well as this Court, wherein it has been held that admission is not a conclusive evidence and it is always open for the assessee to show that it is incorrect, has made the addition of Rs.1.5 crores, which is unsustainable and perverse. It is submitted that the admission made by the assessee has been subsequently retracted by filing of return on 31.03.2015 as well in explanation provided by the assessee before the

AO in response to the show cause notice dated 27.10.2016. Learned counsel for the assessee has taken us through the partnership deed dated 03.02.2011 as well as the addendum to partnership dated 22.02.2012 to contend that the assessee produced sufficient material before the CIT(A) as well as AO to prove that addition under Section 69, if any, could only be made in the hands of the partnership firm. Thus, it is prayed that the appeal filed by the assessee be allowed and the questions of law admitted be answered in favor of the assessee.

8. *Per contra,* learned counsel for the Revenue Sri. Dilip M for Sri. Y V Raviraj, would support the Order passed by the Tribunal as well as the Order passed by the AO and contend that the Tribunal has rightly restored the addition made under Section 69 of the Act as unexplained investments. It is contended on behalf of the revenue that the retraction of the Section 132(4) statement was made more than a year and a half after the initial admission. It is submitted that such belated retraction cannot be allowed and the Tribunal as well as the AO were right in

rejecting the contentions of the assessee regarding retraction. It is further submitted that merely filing the return of income under Section 139(1) of the Act cannot be considered as a retraction, as contended by the learned counsel for the assessee. Thus, he would pray for dismissal of the appeal.

9. Having heard the learned counsel for the parties and having perused the appeal papers as well as the materials on record, we are not inclined to interfere with the order passed by the Tribunal for the reasons recorded hereunder:

It is an undisputed fact that a search and seizure action under Section 132 of the Act was conducted in the premises of the assessee on 04.02.2015, wherein several incriminating materials were found, including an admission by the assessee in his statement under section 132(4), admitting to investment of Rs. 1.5 crores made over and above the admitted investment for convention hall, namely Sindhur Convention Hall. The relevant extract of the statement of the assessee under section 132(4) of the

Act, admitting to unexplained investment of Rs. 1.5 crores are reproduced hereunder:

> *"Q. No. 06 Please produce the detail of receipts and booking register of Sindhoor Convention Hal J P Nagar Mysore, whether separate books of accounts are maintained for above mentioned business activities*
>
> *Ans. 06. Yes all the bills and booking register are maintained with us as such there are no books of accounts maintained and the said Sindhoor Convention Hall is constructed and completed in October2013 and Rs. 2.75 crores is invested in construction of saidconvention Hall.*
>
> *QNo7 It is observed that the built up area of the said convention hall is about 31,000/ sq Ft and the construction is of superior quality. As such. the amount of Rs 2.75 crores stated by you appears to be on a lower side. So please state the correct amount of investment and also explain the sources thereof*
>
> *Ans: Sir I have not maintained proper records in respect of construction. Though according to me the amount of investment stated by me above is correct, in the absence of proper records I. do not want to get into litigation with the department. Hence, I state that the investment may be around Rs.3.5 crores. As regards sources, loan of Rs 1.5 crores from KSFC has been utilized for the construction. Later on I took further loan from Axis bank and INC Vysya Bank, out of which Rs 1.5 crores was used for clearing the loan taken from KSFC and Rs 50 lakhs were used for construction. In the absence of books of account and non-maintenance of proper records I hereby declare the*

balance amount of Rs 1.5 crores as my additional income-in my individual capacity- for the AY 2014-15,over and above my normal income."

10. As could be seen from the extract of the 132(4) statement above, the assessee has unequivocally and in clear terms stated that amount of Rs.1.5 crores is unexplained and also declared the same in his individual capacity for the AY 2014-15, over and above the income. It has been contended on behalf of the assessee that the said admission has been retracted on 2 occasions. It is contended that the firstly, the assessee retracted the statement by filing ITR on 31.03.2015 and secondly, in response to the show cause notice before the AO dated 27.10.2016. We reject the said contention on two counts. Firstly, mere filing of ITR cannot be said to be a retraction of the statement made under Section 132(4) of the Act. By filing ITR, the assessee would only be declaring his income for the specific AY and it has nothing to do with the statement given contrary to the ITR filed. Secondly, if at all the assessee wants to retract a statement given under Section 132(4), it has to be done at the earliest

opportunity after the search is over and it may be done so by filing an affidavit in that regard, explaining the reasons for giving the said statement as well as producing sufficient corroborative evidence to support his claim or by filing a complaint before the higher authorities, if the statement is alleged to have been given under coercion or duress.

11. A statement made by an assessee under Section 132(4) of the Act carries evidentiary value and is ordinarily binding on the assessee. Such a statement can be withdrawn or retracted only by establishing that it was made under a mistaken understanding of facts or law, or that it was obtained by coercion, threat or duress. In order to retract such a statement, the assessee is required to do so at the earliest opportunity and support the retraction with cogent and credible material. A belated retraction, unsupported by satisfactory evidence, cannot be readily accepted, as the departmental authorities would have acted upon the statement made by the assessee during the course of the search. Permitting an unsubstantiated

retraction at a later stage would cause prejudice to the Revenue, which may have acted upon admission made by the assessee. In this regard, reference is made to the decision of a Coordinate bench of the Madras High Court in ***CIT V. MAC PUBLIC CHARITABLE TRUST*****,** reported in **(2023) 450 ITR 368,** the relevant extracts of which are reproduced hereunder:

> ***"62.*** *It is settled position of law that the admission though important is not conclusive. It is open to the assessee who made the admission to show that it is incorrect as held by the hon'ble Supreme Court in Pullangode Rubber Produce Company Ltd. v. State of Kerala [1973] 91 ITR 18 (SC). The onus falls on the person who had earlier admitted to prove it wrong. Therefore, the statements could form the basis of assessment.*
>
> ***63.*** *The statements given to the Assessing Officer under section 132(4) have legal force. Unless the retractions are made within a short span of time, supported by affidavit swearing that the contents are incorrect and it was obtained under force, coercion and by lodging a complaint with higher officials, the same cannot be treated as retracted. This position laid down in catena of decisions by the various High Courts in CIT v. Lekh Raj Dhunna*

[2012] 344 ITR 352 (P&H), Bachittar Singh v. CIT [2010] 328 ITR 400 (P&H), Rameshchandra& Co. v. CIT [1987] 168 ITR 375 (Bom), Dr. S.C. Gupta v. CIT [2001] 248 ITR 782 (All), CIT v. Hotel Meriya [2011] 332 ITR 537 (Ker), CIT v. O. Abdul Razak [2013] 350 ITR 71 (Ker).”

12. Adverting to the facts of the present case, the assessee’s contention that the filing of the ITR dated 31.03.2015 would amount to a retraction, deserves to be rejected. Further, the assessee’s contention that, before the AO, the assessee has retracted his statement made under Section 132(4) of the Act and explained the investments in the hands of the partnership firm, also deserves to be rejected for the reason that the said retraction came about a year and a half after the statement was made under Section 132(4). As regards the contention that the AO did not find any independent corroborative material to support the admission made by the assessee in his statement recorded under Section 132(4) of the Act, it is relevant to note that the Tribunal, being the final fact-finding authority, has observed in paragraph 12 of the impugned order that the assessee's

admission regarding unexplained investment of Rs.1.5 crore in the convention hall, in his individual capacity, stands corroborated by the physical existence of the building and the absence of any material showing that such investment was made by the other partners. Therefore, the Tribunal was of the opinion that there is sufficient material on record to support the admission made by the assessee.

13. Such being the circumstances, we are not inclined to interfere with the Order of the Tribunal. Hence, the questions of law are answered in favor of the Revenue and against the assessee. Income Tax Appeal stands dismissed. No orders as to costs.

SD/-
(S.G.PANDIT)
JUDGE

SD/-
(RAJESH RAI K)
JUDGE

MPK
CT: RK