



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 31ST DAY OF JANUARY, 2026
PRESENT
THE HON'BLE MR. JUSTICE S.G.PANDIT
AND
THE HON'BLE MR. JUSTICE K. V. ARAVIND
INCOME TAX APPEAL NO. 5 OF 2025

BETWEEN:

1. THE COMMISSIONER
OF INCOME TAX EXEMPTION,
6TH FLOOR, UNITY BUILDING ANNEX,
P. KALINGA RAO ROAD
KARNATAKA-560027.
2. THE ASSISTANT COMMISSIONER
OF INCOME TAX
ROOM NO.606, 6TH FLOOR,
UNITY BUILDING ANNEX,
P KALINGA RAO ROAD,
KARNATAKA- 560027.

...APPELLANTS

(BY SRI. ARAVIND V CHAVAN, SR. STANDING COUNSEL)

AND:

M/S. RAJIV GANDHI UNIVERSITY
OF HEALTH SCIENCES
RGUHS, 4TH T BLOCK,
JAYANAGAR, BANGALORE-560041
REP. BY ITS VICE-CHANCELLOR.

...RESPONDENT

(BY SRI. ANNAMALAI, ADV.)

THIS INCOME TAX APPEAL UNDER SEC.260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 28.06.2024 PASSED IN ITA NO. 703/BANG/2023, FOR THE ASSESSMENT YEAR 2014-2015 PRAYING TO ALLOW THE APPEAL AND SET ASIDE THE ORDERS PASSED BY THE INCOME-TAX APPELLATE TRIBUNAL, BENGALURU





DATED 28.06.2024 PASSED IN ITA NO. 703/BANG/2023, FOR ASSESSMENT YEAR 2014-2015 ANNEXURE-A AND CONFIRMING THE ORDER OF THE APPELLANT COMMISSIONER CONFIRM THE ORDER PASSED BY THE ASSISTANT THE COMMISSIONER OF INCOME TAX, (EXEMPTIONS) BENGALURU.

THIS APPEAL, COMING ON FOR ADMISSION, 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)

This appeal is filed by the Revenue under Section 260-A of the Income-tax Act, 1961 (for short, "the Act"), calling in question the order dated 28.06.2024 passed by the Income Tax Appellate Tribunal 'A' Bench (for short, "the Tribunal") in ITA No.703/Bang/2023 pertaining to the Assessment Year 2014-15.

2. The respondent-assessee filed its return of income for the Assessment Year 2014-15, and was referred to special audit under section 142(2A) of the act. The assessment was completed under Section 143(3) of the Act on 25.07.2017. Aggrieved by the said assessment order, the respondent-assessee preferred an appeal before the National Faceless Appeal Centre (NFAC). The Commissioner of Income-tax



(Appeals) [CIT(A)], by order dated 21.07.2023, partly allowed the appeal.

2.1 Still aggrieved, the assessee carried the matter in further appeal before the Tribunal. By the impugned order, the Tribunal remitted the matter to the CIT(A) for fresh consideration. One of the issues remitted for reconsideration pertains to the validity of the notice issued under Section 143(2) of the Act.

3. Sri Aravind V. Chavan, learned Senior Standing Counsel appearing for the appellant–Revenue, submits that the assessee filed its return of income on 28.03.2015 and a revised return on 10.11.2016. It is submitted that the last date for filing a revised return was 31.03.2016. According to learned counsel, the revised return having been filed beyond the period prescribed under Section 139(5) of the Act, the same is invalid in law.

3.1 It is further submitted that the notice issued under Section 143(2) of the Act was based on the original return filed on 28.03.2015. Learned counsel submits that the Tribunal, in



paragraph 6.2 of the impugned order, has observed that the notice under Section 143(2) of the Act was issued on the basis of the belated revised return, which, according to him, is factually incorrect.

3.2 Learned counsel submits that, in view of the aforesaid erroneous observation, the remand of the matter to the CIT(A) has been rendered futile. However, learned counsel fairly submits that subject to clarification of the above observation, the Revenue has no grievance with regard to the order of remand passed by the Tribunal.

4. Sri Annamalai, learned counsel appearing for the respondent–assessee, submits that the validity of the notice issued under Section 143(2) of the Act—whether it was issued on the basis of the original return or the revised return—is itself in dispute. It is submitted that since the said contention was not examined or adjudicated by the CIT(A), the Tribunal has rightly remanded the matter for fresh consideration of the said issue by the CIT(A).



4.1 Learned counsel further submits that the Tribunal has not recorded any finding as to whether the notice under Section 143(2) of the Act was issued on the original return or on the revised return. In that view of the matter, it is submitted that the contention urged on behalf of the Revenue is unsustainable.

5. Having considered the submissions of the learned counsel appearing for the parties, we notice that the impugned order is an order of remand passed by the Tribunal directing consideration of certain issues by the CIT(A). One of the issues so remitted pertains to the validity of the notice issued under Section 143(2) of the Act. In paragraph 6.2 of the impugned order, the Tribunal has held as follows:

"It is noticed that the fact that the revised return is subjected to processing during assessment as per the above letter dated 09.05.2024. Also, we note that the said revised return is said to be belatedly filed by the assessee. All these situations has not been addressed by the Ld.CIT(A) while considering the additional ground raised at the time of hearing in the impugned order. WE note that the Ld.CIT(A) has dismissed the issue by holding that an unsigned notice issued u/s. 143(2) dated 21.09.2015 by email will not vitiate the proceedings. In our opinion, this issue and the arguments raised by both sides before us needs to be properly verified by the Ld.CIT(A). Having regards to the fact that the revised return i.e., belatedly filed by the assessee was processed



during the assessment proceedings for which no notice u/s. 143(2) has been issued. In our considered opinion, we direct eh Ld.CIT(A) to decide the legal issue raised by assessee based on the above admitted facts in accordance with alw. We therefore restrain from deciding the issue on merits at this stage and the same is kept open.

Accordingly, the appeal stands remitted to the Ld.CIT(A) for fresh consideration on ground nos. 2.1-2.2 raised by assessee before this Tribunal.

In the result, the appeal field by the assessee stands allowed for statistical purposes.”

6. Having regard to the fact that the revised return, which was belatedly filed by the assessee, was processed during the assessment proceedings without issuance of any notice under Section 143(2) of the Act, the aforesaid observation undoubtedly conveys that the notice under Section 143(2) of the Act was issued on the basis of the belatedly filed revised return. If the said observation is allowed to remain in the order, the apprehension expressed by the Revenue that the order of remand would not serve its intended purpose cannot be rejected outright.

7. In that view of the matter, the aforesaid portion of the impugned order contained in paragraph 6.2 is hereby deleted.



All contentions of both parties with regard to the validity or otherwise of the issuance of notice under Section 143(2) of the Act are kept open to be adjudicated by the CIT(A).

Except for the aforesaid observations, the present appeal is not entertained and accordingly stands disposed of.

**Sd/-
(S.G.PANDIT)
JUDGE**

**Sd/-
(K. V. ARAVIND)
JUDGE**

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List No.: 1 Sl No.: 20