

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF OCTOBER, 2021

PRESENT

THE HON'BLE MRS.JUSTICE S.SUJATHA

AND

THE HON'BLE MR. JUSTICE E.S.INDIRESH

I.T.A.No.130/2021

BETWEEN :

- 1 . THE COMMISSIONER OF INCOME TAX
EXEMPTIONS, 6TH FLOOR,
UNITY BUILDING ANNEXE,
MISSION ROAD, BENGALURU-560 027.
- 2 . THE ASST. COMMISSIONER OF INCOME-TAX
EXEMPTIONS, CIRCLE-1,
PRESENT ADDRESS DCIT,
CIRCEL-1, EXEMPTION, 6TH FLOOR,
UNITY BUILDING ANNEXE,
MISSION ROAD,
BENGALURU-560 027. ...APPELLANTS

(BY SRI E.I.SANMATHI, ADV. FOR SRI K.V.ARAVIND, ADV.)

AND :

M/s KARNATAKA INDUSTRIAL
AREA DEVELOPMENT BOARD
143, R.P.BUILDING,
2ND FLOOR, NRUPATHUNGA ROAD,
BENGALURU-560 001,
PAN: AAATK1350J ...RESPONDENT

(BY SRI SHARATH S., ADV.)

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 19.10.2020 PASSED IN ITA NO.1333/BANG/2016, FOR THE ASSESSMENT YEAR 2011-2012. PRAYING TO 1. FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE. 2. ALLOW THE APPEAL AND SET ASIDE THE ORDERS PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, BENGALURU IN ITA NO.1333/BANG/2016 DATED 19.10.2020 FOR ASSESSMENT YEAR 2011-2012 ANNEXURE-C AND CONFIRM THE ORDER OF THE APPELLATE COMMISSIONER CONFIRMING THE ORDER PASSED BY THE DEPUTY COMMISSIONER OF INCOME TAX, EXEMPTIONS CIRCLE-1, BENGALURU.

THIS APPEAL COMING ON FOR ADMISSION, THIS DAY, **S. SUJATHA, J.**, DELIVERED THE FOLLOWING:

J U D G M E N T

This appeal is filed by the Revenue under Section 260A of the Income Tax Act, 1961 [‘Act’ for short] challenging the order of the Income Tax Appellate Tribunal “A” Bench, Bengaluru [‘Tribunal’ for short] passed in ITA Noo.1333/Bang/2016 relating to the assessment year 2011-12 raising the following substantial questions of law:

“1. Whether on the facts and in the circumstances of the case, that the Tribunal was right in holding that the assessee is entitled for exemption under Section 11 of the Act even though the activities carried out by

the assessee comes under amended provisions of Section 2[15] of the Act?

2. Whether on the facts and in the circumstances of the case, that the Tribunal was right in holding that the assessee is entitled for exemption under Section 11 of the Act without appreciating that intention of legislature in making amendment to section 2[15] of the Act is to keep development authorities who are involved in commercial activities whose net profit is more than prescribed limit then they are cannot be come under definition of section 2[15] irrespective of nature of application of income and the Legislature having felt the need of providing exemptions to Agricultural Produce Marketing Committees and Boards, inserted clause 25AAB in section 10 by the Finance Act, 208 w.e.f., 1/4/2009 to provide such exemption and kept Development Authorities outside such category of persons?

3. Whether on the facts and in the circumstances of the case, the Tribunal's order can be said as perverse Tribunal failed

to observe that profit from sale of land alone is more than crore's which is significantly more than prescribed limit of Rs.10 lakhs and therefore it is hit by proviso to section 2[15] of the Act which says that the advancement of any other object of general public activity shall not be charitable purpose if it involves the carrying on of any activity in the nature of trade, commerce or business or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fees or any other consideration, irrespective of the nature of use or application or retention of the income from such activity?"

2. Learned counsel appearing for the respondent – assessee submits that the issue involved herein is squarely covered by the Co-ordinate Bench ruling of this Court in the assessee's own case decided on 30.09.2020 in **ITA No.205/2016** reported in **(2021) 277 Taxman 36 (Karnataka) [Karnataka Industrial Area Development Board V/s. Additional Director of Income Tax [Exemptions], Bengaluru]**.

3. Learned counsel for the Revenue could not dispute this aspect of the matter.

4. In view of the aforesaid, we have no reasons to differ from the findings of the Co-ordinate Bench on the issue involved herein. Hence, we answer the substantial questions of law in favour of the assessee and against the Revenue.

Resultantly, appeal stands dismissed.

**SD/-
JUDGE**

**SD/-
JUDGE**

NC.