

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH 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.248/2021 c/w I.T.A.No.205/2021

IN I.T.A.No.248/2021:

BETWEEN :

1 . THE PR. COMMISSIONER OF INCOME TAX
5TH FLOOR, BMTC BUILDING
80 FEET ROAD, KORMANGALA
BENGALURU - 560 095

2 . THE ASSISTANT COMMISSIONER
OF INCOME-TAX, CIRCLE -1
PRESENT ADDRESS ACIT, CIRCLE -1(1)(1)
2ND FLOOR, BMTC BUILDING
80 FEET ROAD, KORAMANGALA
BENGALURU - 560 095

...APPELLANTS

(BY SRI K.V.ARAVIND, ADV.)

AND :

M/s DAVANGERE DISTRICT CENTRAL
CO-OPERATIVE BANK LTD.,
NO.311, A BLOCK, DEVARAJA URS LAYOUT
P.B.ROAD, DAVANAGERE - 577 006
PAN: AAATD6617N

...RESPONDENT

(BY SRI A.SHANKAR, SENIOR COUNSEL FOR
SRI S.ANNAMALAI, ADV.)

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 29.05.2020 PASSED IN ITA NO.1403/BANG/2019, FOR THE ASSESSMENT YEAR 2011-2012. PRAYING TO I. FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE. II. ALLOW THE APPEAL AND SET ASIDE THE ORDERS PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, BENGALURU IN ITA NO.1403/BANG/2019 DATED 29.05.2020 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, CIRCLE-1(1)(1), BENGALURU.

IN I.T.A.No.205/2021:

BETWEEN :

- 1 . THE PR. COMMISSIONER OF INCOME TAX-1
5TH FLOOR, BMTC BUILDING
80 FEET ROAD, KORMANGALA
BENGALURU - 560 095
 - 2 . THE ASSISTANT COMMISSIONER
OF INCOME-TAX, CIRCLE -1
PRESENT ADDRESS ACIT, CIRCLE -1(1)(1)
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PAN: AAATD6617N

...RESPONDENT

(BY SRI A.SHANKAR, SENIOR COUNSEL FOR
SRI S.ANNAMALAI, ADV.)

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 29.05.2020 PASSED IN ITA NO.1404/BANG/2019, FOR THE ASSESSMENT YEAR 2013-2014. PRAYING TO I. FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE. II. ALLOW THE APPEAL AND SET ASIDE THE ORDERS PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, BENGALURU IN ITA NO.1404/BANG/2019 DATED 29.05.2020 FOR ASSESSMENT YEAR 2013-2014 ANNEXURE-C AND CONFIRM THE ORDER OF THE APPELLATE COMMISSIONER CONFIRMING THE ORDER PASSED BY THE DEPUTY COMMISSIONER OF INCOME TAX, CIRCLE-1(1)(1), BENGALURU.

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

J U D G M E N T

These appeals are filed by the Revenue under Section 260A of the Income Tax Act, 1961 ('Act' for short) assailing the common order dated 29.05.2020 passed in ITA Nos.1403/Bang/2019 and 1404/Bang/2019 by the Income Tax Appellate Tribunal "A" Bench, Bangalore ('Tribunal' for short) relating to the assessment years 2011-12 and 2013-14 respectively raising following common substantial questions of law in both the appeals which reads as under:-

"1. Whether on the facts and in the circumstances of the case, the Tribunal is right in law in setting aside addition made by

assessing authority in respect of interest accrued on Non-Performing Assets (NPA) for period under consideration without appreciating that as per section 145 of Act (amended w.e.f. 1/4/1997), income under the head 'profit and gains of business or profession' has to be computed either under cash or mercantile system of accounting and subject to accounting standards notified by the Central Government and therefore, in the present case, interest accrued on Non Performing Assets (NPA's) is taxable and mixed system of accounting was clearly not permissible?

2. Whether on the facts and in the circumstances of the case, the orders passed by CIT(A) and Tribunal can be said as perverse as both the appellate authorities have failed to observe that assessee ought to have shown interest accrued as assessee is following mercantile system of accounting and cannot take stand as it is not received, interest is not chargeable to tax?"

2. Learned counsel for the assessee placing reliance on the ruling of the Co-ordinate Bench of this Court in the case of ***The Commissioner of Income Tax and another vs. M/s. Davangere District Central Co-operative Bank Limited [ITA No.137/2015 (D.D.13.11.2020)]*** submitted that the substantial questions of law raised herein are squarely covered by the said decision and accordingly, the appeals deserve to be dismissed answering the substantial questions of law raised herein, in favour of the assessee and against the Revenue.

3. The aforesaid aspect of the matter could not be disputed by the learned counsel for the Revenue.

4. In view of the above, we have no reason to differ from the aforesaid decision of the Co-ordinate Bench of this Court. Accordingly, we answer the substantial questions of law in favour of the assessee and against the Revenue.

In the result, the appeals stand dismissed.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

PMR