

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF AUGUST 2020

PRESENT

THE HON'BLE MR. JUSTICE ALOK ARADHE

AND

THE HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD

I.T.A. NO.303 OF 2016

BETWEEN:

1. COMMISSIONER OF INCOME TAX (EXEMPTIONS)
UNITY BUILDING ANNEXE
MISSION ROAD, BANGALORE-560027.
2. DEPUTY DIRECTOR OF INCOME TAX (E)
CIRCLE 17(1), BANGALORE-27.

... APPELLANTS

(By Sri. E.I. SANMATHI, ADV.,)

AND:

M/S. INDIA HERITAGE FOUNDATION
GOKULAM COMPLEX
8TH MILE, KANAKAPURA ROAD
BANGALORE-560062
PAN:AAAT14481AM.

... RESPONDENT

(By Ms. VANI H, ADV.)

THIS ITA IS FILED UNDER SECTION 260-A OF I.T. ACT,
1961 ARISING OUT OF ORDER DATED 30.11.2015 PASSED IN ITA
NO.363/BANG/2014 FOR THE ASSESSMENT YEAR 2009-10,
PRAYING TO:

(I) DECIDE THE FOREGOING QUESTION OF LAW AND/OR SUCH OTHER QUESTIONS OF LAW AS MAY BE FORMULATED BY THE HON'BLE COURT AS DEEMED FIT AND SET ASIDE THE APPELLATE ORDER DATED 30-11-2015 PASSED BY THE ITAT, 'B' BENCH, BENGALURU, AS SOUGHT FOR IN THE RESPONDENT-ASSEESSEE'S CASE, IN APPEAL PROCEEDINGS IN ITA NO.363/BANG/2014 FOR A.Y.2009-10 AND GRANT SUCH OTHER RELIEF AS DEEMED FIT IN THE INTEREST OF JUSTICE & ETC.

THIS ITA COMING ON FOR HEARING, THIS DAY, **ALOK ARADHE J.**, DELIVERED THE FOLLOWING:

JUDGMENT

This appeal under Section 250A of the Income Tax Act, 1961 (hereinafter referred to as the Act for short) has been preferred by the revenue. The subject matter of the appeal pertains to the Assessment year 2009-10. The appeal was admitted by a bench of this Court vide order dated 10.10.2017 on the following substantial question of law:

Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that as the 263 order was no more in existence, the consequential order passed by the assessing authority is

infructuous even though the order passed by the assessing authority is in accordance with the directions issued by the Commissioner of Income Tax under Section 263 of the Act and when the said 263 order is subject matter before this Hon'ble High Court in ITA No.382/2012?

2. By a separate order passed today, we have decided I.T.A.No.382/2012. For the reasons assigned in the aforesaid order, the substantial question of law is answered in favour of the revenue and against the assessee. In the result, the order dated 30.11.2015 passed by the Income Tax Appellate Tribunal is quashed as well as the order dated 29.10.2013 passed by the Commissioner of Income Tax (Appeals) and the order dated 14.03.2012 passed by the Assessing Officer are quashed and the matter is remitted to the Assessing Officer to deal with the claim of the assessee under Section 80IB(10) of the Act.

Accordingly, the appeal is disposed of.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

SS

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