

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF DECEMBER, 2021

PRESENT

THE HON'BLE MRS.JUSTICE S.SUJATHA

AND

THE HON'BLE MR. JUSTICE RAVI V. HOSMANI

I.T.A.No.663/2018 c/w I.T.A.No.642/2018,
I.T.A.No.644/2018, I.T.A.No.646/2018,
I.T.A.No.647/2018, I.T.A.No.648/2018,
I.T.A.No.649/2018, I.T.A.No.650/2018,
I.T.A.No.652/2018, I.T.A.No.666/2018,
I.T.A.No.667/2018, I.T.A.No.669/2018,
I.T.A.No.670/2018, I.T.A.No.654/2018,
I.T.A.No.662/2018, I.T.A.No.664/2018,
I.T.A.No.665/2018, I.T.A.No.671/2018,
I.T.A.No.766/2018, I.T.A.No.768/2018,
I.T.A.No.769/2018 & I.T.A.No.770/2018

IN I.T.A.No.663/2018:

BETWEEN :

STATE BANK OF INDIA
KATRIGUPPE BRANCH
NO.78/1, R.K.REGENCY
KATRIGUPPE MAIN ROAD
BENGALURU-560085
REP BY ITS CHIEF MANAGER,
Mr. PRINCE BHARATHAN,
S/O Mr. K.BHARATHAN
AGED ABOUT 59 YEARS,
PAN NO. AAACS8577K

...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SMT.JINITA CHATTERJEE, ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),
CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,
BENGALURU-560 032.

...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 06.04.2018 PASSED IN ITA NO.1408/BANG/2017, FOR THE ASSESSMENT YEAR 2013-2014 PRAYING TO (A) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; (B) ALLOW THE APPEAL AND SET-ASIDE THE ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 06.04.2018 IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA NO.1408/BANG/2017 FOR THE ASSESSMENT YEARS 2013-2014.

IN I.T.A.No.642/2018:

BETWEEN :

STATE BANK OF INDIA
RAJARAJESWARI BRANCH,
IDEAL HOME TOWNSHIP,
BENGALURU - 560 098,
REP BY ITS CHIEF MANAGER,
SRI UMESH ADKI,
S/O SRI BASAVARAJAADKI.
AGED ABOUT 46 YEARS,
PAN NO: AAACS8577K

...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SMT.JINITA CHATTERJEE, ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),

CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,
BENGALURU-560 032.

...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 06.04.2018 PASSED IN ITA NO.1395 & 1403/BANG/2017, FOR THE ASSESSMENT YEAR 2011-2012 & 2012-2013, PRAYING TO (A) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; (B) ALLOW THE APPEAL AND SET-ASIDE THE ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 06.04.2018 IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA NOS.1395 & 1403/BANG/2017 FOR THE ASSESSMENT YEARS 2011-2012 & 2012-2013.

IN I.T.A.No.644/2018:

BETWEEN :

STATE BANK OF INDIA
FOCAL POINT LINK BRANCH,
NO.65, STATE BANK ROAD,
BENGALURU - 560 001,
REF BY ITS CHIEF MANAGER,
SRI RANGASWAMY K.,
S/O SRI H.K.KAMALAPPA,
AGED ABOUT 47 YEARS,
PAN NO: AAACS8577K

...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SMT.JINITA CHATTERJEE, ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),
CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,
BENGALURU-560 032.

...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 06.04.2018 PASSED IN ITA NO.1396 & 1397/BANG/2017, FOR THE ASSESSMENT YEAR 2011-2012 & 2012-2013, PRAYING TO (A) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; (B) ALLOW THE APPEAL AND SET-ASIDE THE ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 06.04.2018 IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA NOS.1396 & 1397/BANG/2017 FOR THE ASSESSMENT YEARS 2011-2012 & 2012-2013.

IN I.T.A.No.646/2018:

BETWEEN :

STATE BANK OF INDIA
SPECIALIZED AGRI COMMERCIAL BRANCH,
NO.65, ST.MARK'S ROAD,
BENGALURU-560001
REP BY ITS CHIEF MANAGER,
SRI A.SUBRAMANYA BHAT,
S/O SRI A.PADMANABHA BHAT.
AGED ABOUT 52 YEARS,
PAN: BLRS37784F

...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SMT.JINITA CHATTERJEE, ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),
CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,
BENGALURU-560 032.

...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 06.04.2018 PASSED IN ITA NO.1398/BANG/2017, FOR THE ASSESSMENT YEAR 2012-2013, PRAYING TO (A)

FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; (B) ALLOW THE APPEAL AND SET-ASIDE THE ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 06.04.2018 IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA NO.1398/BANG/2017 FOR THE ASSESSMENT YEARS 2012-2013.

IN I.T.A.No.647/2018:

BETWEEN :

STATE BANK OF INDIA
BANASHANKARI 2ND STAGE,
NO.422, 9TH MAIN,
BENGALURU-560 070,
REP BY ITS BRANCH MANAGER,
Mrs. SOUJANYA M.,
D/O SRI H.MAHADEVASWAMY.
AGED ABOUT 30 YEARS,
PAN NO AAACS8577K

...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SMT.JINITA CHATTERJEE, ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),
CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,
BENGALURU-560 032.

...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 06.04.2018 PASSED IN ITA NO.1399/BANG/2017, FOR THE ASSESSMENT YEAR 2012-2013, PRAYING TO (A) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; (B) ALLOW THE APPEAL AND SET-ASIDE THE ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 06.04.2018 IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA

NO.1399/BANG/2017 FOR THE ASSESSMENT YEARS
2012-2013.

IN I.T.A.No.648/2018:

BETWEEN :

STATE BANK OF INDIA
BANGALORE CITY BRANCH,
NO.22, P.B. NO.651, J.C.ROAD,
BENGALURU-560 002,
REP BY ITS CHIEF MANAGER,
Mrs. MUSHTARI A. SHAH,
D/O ABDUL SHUKUR SHAH
AGED ABOUT 57 YEARS,
PAN No.AAACS8577K

...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SMT.JINITA CHATTERJEE, ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),
CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,
BENGALURU-560 032.

...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION
260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER
DATED 06.04.2018 PASSED IN ITA NO.1400/BANG/2017, FOR
THE ASSESSMENT YEAR 2012-2013, PRAYING TO (A)
FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED
ABOVE; (B) ALLOW THE APPEAL AND SET-ASIDE THE ORDER
OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 06.04.2018
IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA
NO.1400/BANG/2017 FOR THE ASSESSMENT YEARS
2012-2013.

IN I.T.A.No.649/2018:

BETWEEN :

STATE BANK OF INDIA
BIDADI BRANCH, G.R.S. COMPLEX,
MYSORE ROAD, BIDADI,
NOW AT 55 TOWERS, EGLETON ROAD,
B.M.ROAD, BENGALURU - 562 109,
REP BY ITS BRANCH MANAGER,
Mrs. SWETA TOPNO
AGED ABOUT 33 YEARS,
D/O SAGAN TOPNO
PAN NO: AAACS8577K. ...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SMT.JINITA CHATTERJEE, ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),
CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,
BENGALURU-560 032. ...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 06.04.2018 PASSED IN ITA NO.1401/BANG/2017, FOR THE ASSESSMENT YEAR 2012-2013, PRAYING TO (A) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; (B) ALLOW THE APPEAL AND SET-ASIDE THE ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 06.04.2018 IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA NO.1401/BANG/2017 FOR THE ASSESSMENT YEARS 2012-2013.

IN I.T.A.No.650/2018:

BETWEEN :

STATE BANK OF INDIA

CENTRALIZED PENSION PROCESSING CENTRE,
NO.12/13, LAKSHMANAYYA LAYOUT,
2ND FLOOR, GANGANAGAR,
BENGALURU-560024
REP BY ITS ASSISTANT GENERAL MANAGER,
SRI NAGESH B.,
S/O SRI M.K.BALASUBRAMANIAM,
AGED ABOUT 58 YEARS,
PAN No.AAACS8577K

...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SMT.JINITA CHATTERJEE, ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),
CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,
BENGALURU-560 032.

...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 06.04.2018 PASSED IN ITA NO.1402 & 1412/BANG/2017, FOR THE ASSESSMENT YEAR 2012-2013 & 2013-2014, PRAYING TO (A) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; (B) ALLOW THE APPEAL AND SET-ASIDE THE ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 06.04.2018 IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA NOS.1402 & 1412/BANG/2017 FOR THE ASSESSMENT YEARS 2012-2013 & 2013-2014.

IN I.T.A.No.652/2018:

BETWEEN :

STATE BANK OF INDIA
LIABILITY CENTRALIZED PROCESSING CENTRE,
PRAGATHI MAHALAKSHMI,
NO.62, 1ST MAIN, 3RD CROSS,
YESHWANTHPURA INDUSTRIAL SUBURB,

BENGALURU-560 022,
REP BY ITS ASSISTANT GENERAL MANAGER,
SRI V.NANJUNDA MURTHY,
S/O SRI VEERABHADRAPPA.
AGED ABOUT 56 YEARS,
PAN: AAACS8577K

...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SMT.JINITA CHATTERJEE, ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),
CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,
BENGALURU-560 032.

...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 06.04.2018 PASSED IN ITA NO.1406 & 1407/BANG/2017, FOR THE ASSESSMENT YEAR 2012-2013 & 2013-2014, PRAYING TO (A) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; (B) ALLOW THE APPEAL AND SET-ASIDE THE ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 06.04.2018 IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA NOS.1406 & 1407/BANG/2017 FOR THE ASSESSMENT YEARS 2012-2013 & 2013-2014.

IN I.T.A.No.666/2018:

BETWEEN :

STATE BANK OF INDIA
INDIRANAGAR BRANCH
NO.2987, 12TH MAIN
HAL 2ND STAGE, INDIRANAGAR,
BENGALURU-560008
REP BY ITS CHIEF MANAGER,
SRI S.K.ANAND,
S/O SRI ASHOKANATH

AGED ABOUT 44 YEARS,
PAN NO. AAACS8577K

...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SMT.JINITA CHATTERJEE, ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),
CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,
BENGALURU-560 032.

...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 06.04.2018 PASSED IN ITA NO.1411/BANG/2017, FOR THE ASSESSMENT YEAR 2013-2014, PRAYING TO (A) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; (B) ALLOW THE APPEAL AND SET-ASIDE THE ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 06.04.2018 IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA NO.1411/BANG/2017 FOR THE ASSESSMENT YEARS 2013-2014.

IN I.T.A.No.667/2018:

BETWEEN :

STATE BANK OF INDIA
INDUSTRIAL FINANCE BRANCH
NO.16, RESIDENCY ROAD
BENGALURU-560025
REP BY ITS AGM & COO,
SRI GANESH BHAT,
S/O SRI RAMACHANDRA BHAT
AGED ABOUT 56 YEARS,
PAN No.AAACS8577K

...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SMT.JINITA CHATTERJEE, ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),
CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,
BENGALURU-560 032.

...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 06.04.2018 PASSED IN ITA NO.1424 & 1425/BANG/2017, FOR THE ASSESSMENT YEAR 2011-2012 & 2012-2013, PRAYING TO (A) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; (B) ALLOW THE APPEAL AND SET-ASIDE THE ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 06.04.2018 IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA NOS.1424 & 1425/BANG/2017 FOR THE ASSESSMENT YEARS 2011-2012 & 2012-2013.

IN I.T.A.No.669/2018:

BETWEEN :

STATE BANK OF INDIA
JIGANI BRANCH, NO.47, AKN ARCADE
JIGANI INDUSTRIAL AREA,
ANEKAL TALUK, BENGALURU-560105
REP BY ITS BRANCH MANAGER
Mrs. ALKA SINGH,
W/O Mr. VIVEK SAHU
AGED ABOUT 33 YEARS,
PAN No.AAACS8577K

...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SMT.JINITA CHATTERJEE, ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),

CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,
BENGALURU-560 032.

...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 06.04.2018 PASSED IN ITA NO.1426/BANG/2017, FOR THE ASSESSMENT YEAR 2011-2012, PRAYING TO (A) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; (B) ALLOW THE APPEAL AND SET-ASIDE THE ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 06.04.2018 IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA NO.1426/BANG/2017 FOR THE ASSESSMENT YEARS 2011-2012.

IN I.T.A.No.670/2018:

BETWEEN :

STATE BANK OF INDIA
RAMANAGARAM BRANCH
MADHU COMPLEX
BANGALORE-MYSORE ROAD,
RAMANAGARA-562159
REF BY ITS MANAGER,
Mr. LOUIS ROSARIO J.,
S/O Mr. JACOB K.,
AGED ABOUT 46 YEARS
PAN NO. AAACS8577K

...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SMT.JINITA CHATTERJEE, ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),
CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,
BENGALURU-560 032.

...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 06.04.2018 PASSED IN ITA NO.1456/BANG/2017, FOR THE ASSESSMENT YEAR 2011-2012, PRAYING TO (A) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; (B) ALLOW THE APPEAL AND SET-ASIDE THE ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 06.04.2018 IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA NO.1456/BANG/2017 FOR THE ASSESSMENT YEARS 2011-2012.

IN I.T.A.No.654/2018:

BETWEEN :

STATE BANK OF INDIA
GUBBI BRANCH, GUBBI TALUK,
TUMKUR DISTRICT-572 216,
KARNATAKA,
REP BY ITS MANAGER,
SRI N.JANARDHAN,
S/O SRI H.N.NANJUNDA SWAMY
AGED ABOUT 56 YEARS,
PAN NO.AAACS8577K

...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SMT.JINITA CHATTERJEE, ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),
CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,
BENGALURU-560 032.

...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 06.04.2018 PASSED IN ITA NO.1458/BANG/2017, FOR THE ASSESSMENT YEAR 2013-2014, PRAYING TO (A)

FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; (B) ALLOW THE APPEAL AND SET-ASIDE THE ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 06.04.2018 IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA NO.1458/BANG/2017 FOR THE ASSESSMENT YEARS 2013-2014.

IN I.T.A.No.662/2018:

BETWEEN :

STATE BANK OF INDIA
KANAKAPURA BRANCH,
B.G.COMPLEX, A.V.R.ROAD
KANAKAPURA-562117
REP BY ITS MANAGER,
SRI ABHINAV GARG
S/O SRI PARMOD KUMAR
AGED ABOUT 33 YEARS,
PAN NO. AAACS8577K

...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SMT.JINITA CHATTERJEE, ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),
CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,
BENGALURU-560 032.

...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 06.04.2018 PASSED IN ITA NO.1405/BANG/2017, FOR THE ASSESSMENT YEAR 2012-2013, PRAYING TO (A) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; (B) ALLOW THE APPEAL AND SET-ASIDE THE ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 06.04.2018 IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA NO.1405/BANG/2017 FOR THE ASSESSMENT YEARS 2012-2013.

IN I.T.A.No.664/2018:

BETWEEN :

STATE BANK OF INDIA
RACE COURSE ROAD BRANCH
NO.24/1, TRADE CENTRE,
BENGALURU-560001
REP BY ITS CHIEF MANAGER
SRI SATHISH M. KULKARNI
S/O SRI MALHARAO KULAKARNI
AGED ABOUT 54 YEARS,
PAN NO. AAACS8577K

...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SMT.JINITA CHATTERJEE, ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),
CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,
BENGALURU-560 032.

...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 06.04.2018 PASSED IN ITA NO.1409/BANG/2017, FOR THE ASSESSMENT YEAR 2013-2014, PRAYING TO (A) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; (B) ALLOW THE APPEAL AND SET-ASIDE THE ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 06.04.2018 IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA NO.1409/BANG/2017 FOR THE ASSESSMENT YEARS 2013-2014.

IN I.T.A.No.665/2018:

BETWEEN :

STATE BANK OF INDIA
VIJAYANAGAR BRANCH,
NO.2, 5TH MAIN, CHNCS
1ST LAYOUT, NEAR BDA COMPLEX

GOVINDAJ NAGAR, BENGALURU-560040
REP BY ITS BRANCH MANAGER
SRI MURALI KRISHNA S/O SRI V.G.VIJAYAN
AGED ABOUT 28 YEARS,
PAN NO. AAACS8577K

...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SRI MALLAHARAO K., ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),
CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,
BENGALURU-560 032.

...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 06.04.2018 PASSED IN ITA NO.1410/BANG/2017, FOR THE ASSESSMENT YEAR 2013-2014, PRAYING TO (A) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; (B) ALLOW THE APPEAL AND SET-ASIDE THE ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 06.04.2018 IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA NO.1410/BANG/2017 FOR THE ASSESSMENT YEARS 2013-2014.

IN I.T.A.No.671/2018:

BETWEEN :

STATE BANK OF INDIA
STRESSED ASSETS MANAGEMENT BRANCH,
RESIDENCY PLAZA, 4TH FLOOR,
NO.61, RESIDENCY ROAD, BENGALURU-560025
REP BY ITS DEPUTY GENERAL MANAGER
Mr. SHAFIULLAKHAN
S/O Mr. ABDUL KARIM KHAN
AGED ABOUT 53 YEARS,
PAN NO. AAACS8577K

...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SMT.JINITA CHATTERJEE, ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),
CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,
BENGALURU-560 032.

...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 06.04.2018 PASSED IN ITA NO.1457/BANG/2017, FOR THE ASSESSMENT YEAR 2011-2012, PRAYING TO (A) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; (B) ALLOW THE APPEAL AND SET-ASIDE THE ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 06.04.2018 IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA NO.1457/BANG/2017 FOR THE ASSESSMENT YEARS 2011-2012.

IN I.T.A.No.766/2018:

BETWEEN :

STATE BANK OF INDIA
CENTRALIZED CLEARING PROCESSING CENTRE,
1ST FLOOR, VASAVI COMPLEX,
NO.17, ST.MARK'S ROAD,
BENGALURU-560001
PAN:AAACS8577K,
REP BY ITS ASST. GENERAL MANAGER,
SRI RAMANUJA KULKARNI,
S/O SRI GURUNATH,
AGED ABOUT 56 YEARS

...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SRI MALLAHARAO K., ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),
CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,

BENGALURU-560 032.

...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 15.06.2018 PASSED IN ITA NO.1310 & 1312/BANG/2017, FOR THE ASSESSMENT YEAR 2012-2013 & 2013-2014, PRAYING TO (A) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; (B) ALLOW THE APPEAL AND SET-ASIDE THE ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 15.06.2018 IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA Nos.1310 & 1312/BANG/2017 FOR THE ASSESSMENT YEARS 2012-2013 & 2013-2014.

IN I.T.A.No.768/2018:

BETWEEN :

STATE BANK OF INDIA
HR SECTION UNIT BRANCH
1ST FLOOR, KANAKA'S PRIDE
OPP. RAMAKRISHNA ASHRAM
13/1, BULL TEMPLE ROAD,
BASAVANAGUDI, BENGALURU-4
PAN:AAACS8577K
PRESENTLY AT AO1, 1ST FLOOR
MYSORE BANK BUILDING
K.G.ROAD, BENGALURU-560 009
REP BY ITS CHIEF MANAGER
SRI JANARDHAN M. GODKHINDI
S/O SRI MALHAR RAO
AGED ABOUT 54 YEARS

...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SRI MALLAHARAO K., ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),
CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,
BENGALURU-560 032.

...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 15.06.2018 PASSED IN ITA NO.1311/BANG/2017, FOR THE ASSESSMENT YEAR 2012-2013, PRAYING TO (A) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; (B) ALLOW THE APPEAL AND SET-ASIDE THE ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 15.06.2018 IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA No.1311/BANG/2017 FOR THE ASSESSMENT YEARS 2012-2013.

IN I.T.A.No.769/2018:

BETWEEN :

STATE BANK OF INDIA
RACPC-III, BANASWADI
"MARUTHI MANSION"
NO.7M-422, 80 FEET ROAD,
KALYAN NAGAR, BENGALURU-560 043
PAN:AACS8577K
REP BY ITS ASST. GENERAL MANAGER
SRI SANJAY SINHA
S/O SRI SACHIDANANDA SINHA
AGED ABOUT 56 YEARS

...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SRI MALLAHARAO K., ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),
CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,
BENGALURU-560 032.

...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 15.06.2018 PASSED IN ITA NO.1313/BANG/2017, FOR THE ASSESSMENT YEAR 2013-2014, VIDE ANNEXURE-A, PRAYING TO (A) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; (B) ALLOW THE APPEAL AND SET-

ASIDE THE ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 15.06.2018 IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA No.1313/BANG/2017 FOR THE ASSESSMENT YEARS 2013-2014.

IN I.T.A.No.770/2018:

BETWEEN :

STATE BANK OF INDIA
SPECIALISED HOUSING FINANCE BRANCH
NO.1154, 2ND FLOOR, 26TH MAIN
IV T BLOCK, JAYANAGAR
BENGALURU-560 041
REP BY ITS ASST. GENERAL MANAGER
SRI E.SHRISHAKESHA
S/O SRI E.VENKATRAMANA UPADHYAYA
AGED ABOUT 56 YEARS,
PAN NO: AAACS8577K

...APPELLANT

(BY SRI S.PARTHASARATHI, ADV. A/W
SRI MALLAHARAO K., ADV.)

AND :

THE ASSISTANT COMMISSIONER
OF INCOME-TAX (TDS),
CIRCLE-18(2), TDS CIRCLE-3(1),
NO.59, HMT BHAVAN, BELLARY ROAD,
BENGALURU-560 032.

...RESPONDENT

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

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, ARISING OUT OF ORDER DATED 15.06.2018 PASSED IN ITA NO.1314/BANG/2017, FOR THE ASSESSMENT YEAR 2013-2014, PRAYING TO (A) FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED ABOVE; (B) ALLOW THE APPEAL AND SET-ASIDE THE ORDER OF THE INCOME-TAX APPELLATE TRIBUNAL DATED 15.06.2018 IN SO FAR IT PERTAINS TO THE APPELLANT'S APPEAL IN ITA No.1314/BANG/2017 FOR THE ASSESSMENT YEARS 2013-2014.

THESE APPEALS HAVING BEEN HEARD AND RESERVED, COMING ON FOR PRONOUNCEMENT OF JUDGMENT, THIS DAY, **S. SUJATHA, J.**, DELIVERED THE FOLLOWING:

J U D G M E N T

Since common and akin issues are involved in these appeals, they are taken up together, heard and disposed of by this common judgment.

2. These appeals are filed by the assessee – State Bank of India [respective branches] under Section 260A of the Income Tax Act, 1961 ('Act' for short) challenging the common orders dated 06.04.2018 and 15.06.2018 passed by the Income Tax Appellate Tribunal, 'C' Bench, Bengaluru ('Tribunal' for short).

3. The appeals were admitted by this Court to consider the following substantial questions of law:-

"1. Whether the Tribunal was justified in upholding the levy of tax under Section 201(1) and interest under Section 201(1A) of the Act as determined by the TDS authority?"

2. *Whether denial of exemption under Section 10(5) of the IT Act, 1961 read with Rule 2B of the IT Rules, 1962 of reimbursement of leave travel expenses as claimed by the employee of the Appellant was justifiable?*

3. *Whether the Tribunal was justified in holding that in the light of the provisions of Section 10(5) of the IT Act, 1961 read with Rule 2B of the IT Rules, 1962 when the employee has undertaken circuitous route which included foreign leg, the exemption is totally denied without considering the expenditure involved by the shortest route from the place of departure to the place of destination when both the places are within India?"*

4. The appellant - Bank provides benefit of leave travel concession ('LTC' for short) to its employees and while deducting TDS from the salary of the employees, LTC was considered exempted under Section 10(5) of the Act read with Rule 2B of the Income Tax Rules, 1962 ('Rules' for short).

5. A survey under Section 133A of the Act was conducted in the business premises of the appellant's Head Office on 26.12.2013 and it was noticed that the appellant - deductor has given exemption under Section 10(5) of the Act towards reimbursement of LTC/Leave Fare Concession [LFC] claim of the employees for travel outside India (foreign travel) and travel by long circuitous route to the destination. It was also noticed that the same practice has been followed by all the branches of State Bank of India (SBI). Hence, proceedings under Sections 201(1) and 201(1A) of the Act was initiated by issuing show-cause notices to which the appellant submitted reply contending that travel concession or assistance was given to the employees only relating to proceeding on leave to any place in India and where the journey is performed by air to the extent of amount not exceeding the economy air fare of Air India (National Carrier) by shortest route to the destination *inter alia* contending that there is no

prohibition under the Act and Rules to reimburse air economy fare of the National Carrier/rail and the journey performed by any mode of transport *albeit* the employee choses the circuitous route with the foreign leg. The assessing officer, considering the reply vis-à-vis the provisions of the Act, rejected the explanation offered by the appellant – assessee and considered the appellant - deductor as “assessee in default” under Section 201 of the Act for making short deduction under Section 192 of the Act and held to be liable to pay the defaulted amount.

6. Being aggrieved, the assessee preferred appeals before the First Appellate Authority which came to be dismissed. On further appeals before the Tribunal, the Tribunal rejected the same. Being aggrieved, the assessee – Bank has filed these appeals for different assessment years.

7. Learned counsel for the appellant – assessee submitted that the explanation offered by the assessee has not been properly appreciated by the authorities as well as the Tribunal. The Tribunal without considering and addressing the arguments of the appellant merely following its own judgment in the case of ***Syndicate Bank V/s. Assistant Commissioner of Income Tax [TDS] [(2017) 30 taxmann.com 179 (Bang. Trib)]***, which in turn followed the judgment of the ITAT, Lucknow Bench in the case of ***State Bank of India V/s. Deputy Commissioner of Income-tax [TDS], Kanpur [(2016) 158 ITD 194 (Luck-Trib)]***, dismissed the appeals. The fact that the employees departed from a place in India and ended up his journey in a place in India should have been considered and atleast the cost for the shortage route incurred by the employee should have been considered for exemption under Section 10(5) of the Act and the appellant should have been directed to obtain the details to furnish to the Department to

collect short levy, if any. The authorities and the Tribunal ought to have appreciated that invariably reimbursement should only be on the basis of the norms accepted by the banks i.e., the circular issued by the Bankers' Association and the State Bank of India Officers Service Rules, 1992. Thus, it was submitted that there was no default on the part of the appellant to fix the liability under Section 201(1) of the Act and interest under Section 201(1A) of the Act. The appellant was under a bonafide belief that the procedure and norms adopted by the appellant - Bank supported by the instructions issued by the Bankers' Association is justifiable. The Tribunal has failed to consider these aspects in a right perspective.

8. Learned counsel for the revenue justifying the impugned orders submitted that the provisions of Section 10(5) of the Act read with Rule 2B of the Rules do not permit the employees to take circuitous route

which included foreign legs. The device adopted by the appellant - Bank would defeat the purpose and object of LTC/LFS provided to motivate the employees and also to encourage tourism in India. The legislature has not intended to allow the employees to travel abroad under the garb of benefit of LTC. The employees have reached the destination place in India after taking a foreign tour, to which they are not entitled to claim reimbursement as per Section 10(5) of the Act read with Rule 2B of the Rules. The conditions prescribed under Section 10(5) of the Act and Rule 2B of the Rules not being fulfilled, the appellant - Bank cannot take shelter under the Banking Rules and the circular instructions issued by the Bankers Association, the plea of bonafide belief advanced by the appellant is wholly unjustifiable.

9. We have carefully considered the rival submissions of the learned counsel for the parties and perused the material on record.

10. Section 10(5) of the Act reads thus:-

“10. Incomes not included in total income.— In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included—

(1) to (4). xxxxxx

(5) in the case of an individual, the value of any travel concession or assistance received by, or due to, him,—

(a) from his employer for himself and his family, in connection with his proceeding on leave to any place in India;

(b) from his employer or former employer for himself and his family, in connection with his proceeding to any place in India after retirement from service or after the termination of his service, subject to such conditions as may be prescribed (including conditions as to number of journeys and the amount which shall be exempt per head) having regard to the travel concession or assistance granted to the employees of the Central Government:

Provided that the amount exempt under this clause shall in no case exceed the amount of expenses actually incurred for the purpose of such travel.”

11. Rule 2B of the Rules reads thus:-

“2B. (1) The amount exempted under clause (5) of section 10 in respect of the value of travel concession or assistance received by or due to the individual from his employer or former employer for himself and his family, in connection with his proceeding,—

(a) on leave to any place in India;

(b) to any place in India after retirement from service or after the termination of his service,

shall be the amount actually incurred on the performance of such travel subject to the following conditions, namely :—

(i) where the journey is performed on or after the 1st day of October, 1997, by air, an amount not exceeding the air economy fare of the national carrier by the shortest route to the place of destination;

(ii) where places of origin of journey and destination are connected by rail and the journey is performed on or after the 1st day of October, 1997, by any mode of transport other than by air, an amount not exceeding the air-conditioned first class rail fare by the shortest route to the place of destination; and

(iii) where the places of origin of journey and destination or part thereof are not connected by rail and the journey is performed on or after the 1st day of October, 1997, between such places, the amount eligible for exemption shall be :—

(A) where a recognised public transport system exists, an amount not exceeding the 1st class or deluxe class fare, as the case may be, on such transport by the shortest route to the place of destination; and

(B) where no recognised public transport system exists, an amount equivalent to the air-conditioned first class rail fare, for the distance of the journey by the shortest route, as if the journey had been performed by rail.”

12. The letter of the Indian Banks' Association dated 12.07.2012 relied on by the appellant – assessee reads as under:

“Availment of LTC by Officers eligible to travel by AIR

1. *In terms of extant guidelines, the mode and class by which an officer may avail of Leave Travel Concession shall be the same as the officer is normally entitled to travel on transfer subject to other terms and conditions. An Officer in Middle Management Grade may travel by air [economy class] while availing LTC where the distance is more than 1000 kms. An officer in Senior Management or Top Management Grade may travel by air [economy class].*

2. *One of our member banks has referred to IBA, stating that in terms of old norms/guidelines which deals with the matters relating to LTC to officers who are eligible to travel by air, they should travel by Indian Airlines [now Air India] by economy class on the routes where AIR India is*

operating. However, if the journey is undertaken by airlines other than Air India where AIR India also operates, then reimbursement shall be restricted to the extent of fare charged by Air India to that centre or the actual fare incurred, whichever is less.

3. The Bank has solicited our views as to whether it will be in order, if they stipulate Air India's fare as the base fare for arriving at the entitlement. Further, how to arrive at the entitlement, if the Officer travels by the round route to the destination.

4. The matter was considered by IBA Standing Committee on HR at its meeting held on 16.5.2012 and viewed as under:

4.1 Member Banks may be suitably advised to the effect that they may reimburse actual fare incurred for traveling by air of any airlines if the journey is undertaken by direct route in terms of the relevant provision of Officers' Service Regulations, for availment of LTC.

4.2 In regard to travel by round route, the reimbursement may be made not exceeding maximum fare applicable for direct route to the last point of journey destination connected by air from the originating place of journey

4.3 Banks may frame appropriate guidelines under relevant provision of the Service Regulation.

The Managing Committee at its meeting held on 2nd July 2012 approved the above recommendations of the IBA Standing Committee on HR. ”

13. Sample of Staff LFC bills paid, details placed

on record by the assessee would disclose thus:

Sl. No.	Date	Name	Farthest Destination in India	Places Visited	Entitlement as per Notional Fare	Eligible Amount-Rs.	Amount claimed-Rs.	Amount paid.
1.	17/05/2011 [2011-2012]	Ajit S Khasnis	Wagha Border	Bangalore-Colombo, Kaula Lumpur - Putrajaya-Genting Highlands-Singapore-Bangkok-Pattaya-Delhi-Amritsar-Wagha Border etc.,	Bangalore to Delhi Delhi to Amritsar For 3 Members To and Fro Taxi Fates [Rs.575+Rs.600]	24700 <u>10700</u> 35400 x 2 x 3 =212400 <u>1175</u> Total- 213575/-	221675/-	213575/-
2.	09/02/2013 [2012-2013]	Ramesh K Upadhye	Katra	Bangalore-Colombo-Hong Kong-Macau-Bangkok-Pattaya-Delhi-Jammu-Katra	Bangalore to Delhi Delhi to Jammu For 3 Members To and Fro Jammu to Katra - by Helicopter	29000 19000 48000 x 2 x 3 =288000/- <u>2097/-</u> Total-290097/-	271179/-	271179/-

				etc.,				
3	20/08/2013 [2013-2014]	T R Ugalwat	Gulmarg	Bangalore- Colombo, Kaula Lumpur- Putrajaya- Genting Highland- Singapore- Bangkok- Pattaya-Delhi- Srinagar- Gulmarg etc.,	Bangalore to Delhi New Delhi to Srinagar Srinagar to Gulmarg - by Train-ACI Class - for 2 Members To and Fro Taxi Fare at Bangalore & Delhi	28500 15700 985 45185 x 2 x 2 =180740 1830 Total-182570/-	188598/-	182570/-

14. One of the sample travel certificate of the travel agency placed on record is extracted hereunder:

“TRAVEL CERTIFICATE

This is to certify that, SRI.Ajit Khasnis, Manager, State Bank of India, No.65, Local Head Office, St.Marks Road, Bangalore – 560001, has traveled along with his family members in our package tour from 17-04-2011 to 01-05-2011. The details of the tour are as under:

Mode of Transport	Farthest point From Bangalore in India	Total Journey Charges per Person
<i>By Flight, Bus, Train & Cab</i>	<i>Wagha border 2,980 kms</i>	<u>Total Journey Charges</u> <i>Rs.73,500 x 3 = Rs.2,20,500/-</i>
<i>Names of the Participants</i>	<i>Sex – Age</i>	<u>Relationship</u>
<i>1. SRI.AJIT KHASNIS</i>	<i>M 51</i>	<i>Self</i>
<i>2. SMT.SANDHYA KHASNIS</i>	<i>F 40</i>	<i>Wife</i>
<i>3. MR.AMOL KHASNIS</i>	<i>M 13</i>	<i>Son</i>

Received with thanks from, SRIAJIT KHASNIS, Manager, State Bank of India, No.65,. Local Head Office, St. Marks Road, Bangalore-560001, a sum of Rs.2,20,500/- [Rupees Two Lakh twenty thousand five hundred only] towards journey charges excluding boarding & lodging for the package tour referred above.”

15. Day-to-day itinerary of the said tour reads thus:

“Day to day itinerary of the Far East Package tour operated From 17-04-2011 to 01-05-2011”

<ul style="list-style-type: none">• Bangalore – Colombo – Kuala Lumpur By Srilankan Airways Flight• Kuala Lumpur to Singapore By Benz Coach• Singapore – Bangkok By Flight• Bangkok to Pattaya by Benz Bus• Bangkok – Colombo – Delhi By Air• Delhi – Amritsar – Delhi By A/C Chair Car Train• Delhi – Bangalore by Air
Bangalore – Colombo [17-04-2011 to 18-04-2011] Colombo to Nigambo Colombo by Benz bus
Colombo to Malaysia [18-04-2011 to 21-04-2011] Airport transfer, Kula Lumpur Tour, Genting Highland Theme Park, Kuala Lumpur, Putrajaya Tour.
Singapore [21-04-2011 to 23-04-2011] Jurong Bird Park, Sentosa Island Tour, Bam boat Station, transfer to Singapore Airport.
Singapore – Bangkok [23-04-2011] by Flight

Pattaya [23-04-2011 to 25-04-2011] Bangkok to Pattaya by Benz coach, Coral Island speed boat
Bangkok [25-04-2011 to 27-04-2011] Nong Nooch village, Safari World, Airport transfer
Bangkok – Colombo by flight [27-04-2011] Colombo – Delhi by flight [28-04-2011]
Delhi – Amritsar [28-04-2011 to 01-05-2011] Delhi – Amritsar By A/C Chair Car Train Amritsar – Wagha border – Amritsar by Cab [29-04-2011 to 01-05-2011] Amritsar – Delhi By A/C Chair Car Train
Delhi – Bangalore by Air [01-05-2011]

16. The receipt of the said travel agency indicates that the amount of Rs.2,20,500/- only was received towards journey charges/vehicle hired from 17.04.2011 to 01.05.2011 for Singapore-Malaysia-Thailand-Delhi-Amritsar-Wagha Border, for three seats. Thus, the package includes international travel as well in a single itinerary. It is evident that in the case of **Indian Institute of Science V/s. The Dy. Commissioner of Income Tax [TDS] [ITA No.1589/Bang/2014]**, the Income Tax Appellate Tribunal, “A” Bench, Bangalore, considering the plea of the assessee inasmuch as the bonafide estimate of employees’ salary by valuing the perquisites in the form

of residential accommodation provided to the employees by valuing the same as if employees were employees of Central Government, accepted the same. The assessee's obligation under Section 192 was held to be properly discharged, quashing the proceedings under Section 201[1] and 201[1A] of the Act. Though this order of the Tribunal was challenged by the Revenue in ITA Nos.431/2015 and 89/2016, due to the modified monetary limits for filing the appeals before the High Courts in terms Circular No.3/2018 dated 11th July, 2018, the appeals were withdrawn with liberty to the Revenue to revive the said appeals if it is found that the matter falls within the exception carved out in Class-10 of the said Circular No.3/2018.

17. In the case of **Central Food Technological Research Institute V/s. The Income Tax Officer, [TDS] [ITA No.486/2014, D.D. 14.07.2021]**, the Coordinate Bench of this Court in the context of Rule 3 of the Income Tax Rules, referring to the case of **Indian**

Institute of Bangalore supra, held that the assessee had made a bonafide estimate of the employees salary to value the perquisite in the form of residential accommodation provided to the employees as if they are the employees of the central Government, the same was accepted and the proceedings under Sections 201 and 201[1A] of the Act have been quashed. Learned counsel for the appellant has placed reliance on these judgments to contend that it was based on a bonafide reason and referring to the Indian Banks' Circular, exemption was granted under Section 10[5] of the Act read with Rule 2B of the Rules, as such, appellant cannot be treated as a defaulter to pass an order under Section 201 and 201[1A] of the Act. This argument cannot be countenanced in the teeth of Section 10[5] of the Act which contemplates that the value of any travel concession or assistance received by, or due to him, from his employer for himself and his family in connection with this proceeding on leave to any place in

India shall be exempt having regard to the travel concession and assistance granted to the employees. This provision cannot be interpreted to allow the employees of the Bank to claim LTC for travelling in a circuitous route visiting foreign countries.

18. The intention of the Legislature under Section 10[5] appears to be two fold. One is to provide some relaxation/refreshment to an employee, who can spend time with the family and gain knowledge about the places of visit i.e., to motivate the employees in discharging their regular duties efficiently with the refreshed mind after tour. Secondly, to encourage the tourism in India. Traveling abroad in the guise of LTC/LFC could not entitle for the exemption under Section 10[5] of the Act. The service conditions/circular issued by the Indian Banks' Association is not a statutory Circular and would not govern the department. It would have been different altogether if the employee has traveled to any place in India and

then abroad, for example, from Bengaluru to Delhi, thereafter from Delhi to New York. In the instant cases, it is not so. The employees have directly traveled abroad and in the return journey, had visited the places in India. The itinerary confirms the same.

19. The charges towards the said tour received by the tour operator demonstrate that it is the consolidated charges for the entire journey. In such circumstances, in our considered view, the same cannot be split up to avail the benefit of LTC/LFC by the employees. The plea of bonafide belief put up by the assessee placing reliance on the Circular issued by the Indian Banks' Association is untenable since no clarification from the department was sought by the assessee on this aspect.

20. Section 192 of the Act reads thus:

“Salary.

192. (1) Any person responsible for paying any income chargeable under the

head “Salaries” shall, at the time of payment, deduct income-tax on the amount payable at the average rate of income-tax computed on the basis of the rates in force for the financial year in which the payment is made, on the estimated income of the assessee under this head for that financial year.”

This provision contemplates that any person responsible for paying any income chargeable as salaries shall at the time of payment, deduct income tax at the rates in force on the estimated income of the assessee.

21. It is beneficial to refer to the judgment of the Hon'ble Apex Court in the case of **Commissioner of Income Tax, New Delhi V/s. Eli Lilly & Co. [India] [P] Ltd., [(2009) 178 Taxman 505 (SC)]**, wherein the scope of Sections 192 [1], 201[1], 201[1A], 271 and 273B has been extensively considered. In paragraph 34, the Hon'ble Apex Court has held thus:

“34. *A perusal of Section 201(1) and Section 201(1A) shows that both these provisions are without prejudice to each other. It means that the provisions of both the sub-sections are to be considered independently without affecting the rights mentioned in either of the sub-sections. Further, interest under Section 201(1A) is compensatory measure for withholding the tax which ought to have gone to the exchequer. The levy of interest is mandatory and the absence of liability for tax will not dilute the default. The liability of deducting tax at source is in the nature of a vicarious liability, which pre-supposes existence of primary liability. The said liability is a vicarious liability and the principal liability is of the person who is taxable. A bare reading of Section 201(1) shows that interest under Section 201(1A) read with Section 201(1) can only be levied when a person is declared as an assessee-in-default. For computation of interest under Section 201(1A), there are three elements. One is the quantum on which interest has to be levied. Second is the rate at which interest has to be charged. Third is the period for which interest has to be charged. The rate of interest is provided in the 1961 Act. The quantum on which interest*

has to be paid is indicated by Section 201 (1A) itself. Sub-section (1A) specifies "on the amount of such tax" which is mentioned in sub-section (1) wherein, it is the amount of tax in respect of which the assessee has been declared in default. The object underlying Section 201(1) is to recover the tax. In the case of short deduction, the object is to recover the shortfall. As far as the period of default is concerned, the period starts from the date of deductibility till the date of actual payment of tax. Therefore, the levy of interest has to be restricted for the above stated period only. It may be clarified that the date of payment by the concerned employee can be treated as the date of actual payment."

22. The liability under Sections 201[1] and 201[1A] would arise only when the assessee has been declared as an assessee-in-default, the object of which is to recover the tax. Tax compliance has to be made strictly in terms of the Act, not on the advise/Circulars of the Association. Tax being compulsorily payable, in default interest is liable to be paid under Section 201[1A] which is compensatory in nature but that is not

so in the case of penalty. The Hon'ble Apex Court in ***Eli Lilly & Co.***, supra, has set aside the penalty order made under Sections 271C read with 273B of the Act directing the Assessing Authority to examine each case to ascertain whether the employee-assessee [recipient] has paid the tax due on, in case tax due on stands paid off, then the Assessing Officer shall not proceed under Section 201[1]. In cases where the tax has not been paid, the Assessing Officer has been directed to proceed under Section 201[1] of the Act. Similarly with respect to Section 201[1A] of the Act, relief has been granted only with respect to penalty proceedings. In the light of this judgment, the shelter taken by the assessee under the bonafide reason cannot be countenanced.

23. We have also perused the e-Circular referred to, by the learned counsel for the assessee dated 03.03.2015, where the interim order of the Hon'ble Madras High Court dated 16.02.2015 has been referred

to. But in the present cases, journey was undertaken prior to 16.02.2015.

24. In the judgment referred to by the learned counsel for the appellant in the case of **Commissioner of Income-tax and Another V/s. Larsen and Toubro Ltd., and Another** [(2009) 313 ITR 1 (SC)], the question that fell for determination was, whether the assessee[s] was under statutory obligation under the Income Tax Act, 1961, and/or the Rules to collect evidence to show that its employee[s] had actually utilized the amount[s] paid towards leave travel concession[s]/conveyance allowance? In that context, it was held that beneficiary of exemption under Section 10[5] is an individual employee. There is no Circular of the Central Board of Direct Taxes [CBDT] requiring the employer under Section 192 to collect and examine the supporting evidence to the declaration to be submitted by an employee[s]. With great respect, we are of the considered view that this judgment would not come to

the aid of the appellant to substantiate the arguments advanced in the present case.

25. Having regard to Section 10[5] and Rule 2B, it is clear that leave travel concession is available for an employee to proceed on leave to any place in India [destination] and thereafter return to the place of origin in the shortest route but not with a foreign leg. Such an amount to be allowed as concession cannot exceed the air economy fair of the National carrier by the shortest route to the destination in India. We are of the considered view that no claim of exemption could be made, out of the total ticket package spent on overseas travel with part of the journey being within India by the employee.

26. The bonafide belief pleaded by the appellant- assessee is without any legal basis. Considering these aspects, the authorities have rightly held that the assessee as an 'assessee in default' under Section 201[1] of the Act.

For the reasons aforesaid, we answer the substantial questions of law against the assessee and in favour of the Revenue.

Resultantly, appeals stand dismissed.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

PMR/NC.