IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 29th DAY OF MAY 2018

PRESENT

THE HON'BLE DR. JUSTICE VINEET KOTHARI

AND

THE HON'BLE DR. JUSTICE H. B. PRABHAKARA SASTRY

I.T.A. No.243 OF 2006
C/W.
I.T.A. Nos.244 OF 2006,
246 OF 2006, 247 OF 2006 AND 249 OF 2006

BETWEEN:

1. THE COMMISSIONER OF INCOME TAX,
KHIMJIBHOI COMMERCIAL COMPLEX,
OPP. CIVIL HOSPITAL,
BELGAUM-590 001.

2. THE TAX RECOVERY OFFICER,
RANGE-2,
OPP. DISTRICT HOSPITAL,
BELGAUM.

... APPELLANTS
(COMMON)

(BY MR. E. I. SANMATI, ADVOCATE FOR MR. K. V. ARAVIND, ADVOCATE)

AND

THE COMMISSIONER,
BELGAUM URBAN DEVELOPMENT,
AUTHORITY(BUDA),
ASHOK NAGAR, BELGAUM.

... RESPONDENT
(COMMON)

(BY MR. M. A. HULYAL, ADVOCATE)

I.T.A. No. 243/2006 IS FILED UNDER SECTION 260-A OF INCOME TAX ACT, 1961, ARISING OUT OF ORDER DATED 01-09-2005 PASSED IN ITA NO.319/PNJ/2004, FOR THE ASSESSMENT YEAR 1998-99, PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED THEREIN, ALLOW THE APPEAL AND SET ASIDE THE ORDER PASSED BY THE ITAT PANAJI BENCH IN ITA NO. 319/PNJ/2004 DATED 01-09-2005 AND CONFIRM THE ORDER PASSED BY THE ASSESSING AUTHORITY, IN THE INTEREST OF JUSTICE AND EQUITY.

I.T.A. No.244/2006 IS FILED UNDER SECTION 260-A OF INCOME TAX ACT, 1961, ARISING OUT OF ORDER DATED 01-09-2005 PASSED IN ITA NO.320/PNJ/2004, FOR THE ASSESSMENT YEAR 1999-2000, PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED THEREIN, ALLOW THE APPEAL AND SET ASIDE THE ORDER PASSED BY THE ITAT PANAJI BENCH IN ITA NO. 320/PNJ/2004 DATED 01-09-2005 AND CONFIRM THE ORDER PASSED BY THE ASSESSING AUTHORITY, IN THE INTEREST OF JUSTICE AND EQUITY.

I.T.A. No.246/2006 IS FILED UNDER SECTION 260-A OF INCOME TAX ACT, 1961, ARISING OUT OF ORDER DATED 01-09-2005 PASSED IN ITA NO.321/PNJ/2004, FOR THE ASSESSMENT YEAR 2000-01, PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED THEREIN, ALLOW THE APPEAL AND SET ASIDE THE ORDER PASSED BY THE ITAT PANAJI BENCH IN ITA NO. 321/PNJ/2004 DATED 01-09-2005 AND CONFIRM THE ORDER PASSED BY THE ASSESSING AUTHORITY, IN THE INTEREST OF JUSTICE AND EQUITY.

I.T.A. No.247/2006 IS FILED UNDER SECTION 260-A OF INCOME TAX ACT, 1961, ARISING OUT OF ORDER DATED 01-09-2005 PASSED IN ITA NO.322/PNJ/2004, FOR THE ASSESSMENT YEAR 2001-02, PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED THEREIN, ALLOW THE APPEAL AND SET ASIDE THE ORDER PASSED BY THE ITAT PANAJI BENCH IN ITA NO. 322/PNJ/2004 DATED 01-09-2005 AND CONFIRM THE ORDER PASSED BY THE ASSESSING AUTHORITY, IN THE INTEREST OF JUSTICE AND EQUITY.

I.T.A. No.249/2006 IS FILED UNDER SECTION 260-A OF INCOME TAX ACT, 1961, ARISING OUT OF ORDER DATED 01-09-2005 PASSED IN ITA NO.323/PNJ/2004, FOR THE ASSESSMENT YEAR 2002-03, PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED THEREIN, ALLOW THE APPEAL AND SET ASIDE THE ORDER PASSED BY THE ITAT PANAJI

BENCH IN ITA NO. 323/PNJ/2004 DATED 01-09-2005 AND CONFIRM THE ORDER PASSED BY THE ASSESSING AUTHORITY, IN THE INTEREST OF JUSTICE AND EQUITY.

THESE APPEALS COMING ON FOR FINAL HEARING THIS DAY, ***DR. VINEET KOTHARI, J.***, DELIVERED THE FOLLOWING:

COMMON JUDGMENT

Mr. E. I. Sanmati, advocate for Mr. K. V. Aravind, Advocate for appellants.

Mr. M. A. Huiyal, Advocate for respondent.

1. In the present appeals filed by the appellant-Revenue, the "Tax Effect" is less than Rs.20,00,000/-, the monetary limit prescribed by the recent CBDT Circular No.21/2015 in F.No.279/Misc.142/2007-ITJ (Pt) dated **10th December 2015**, by which the CBTD has instructed to the Income Tax Authorities to withdraw/not to press the appeals filed by Revenue before the High Court under Section 260-A of the Income Tax Act, 1961, if the "Tax Effect" is less than Rs.20,00,000/-.

2. From a perusal of the order passed by the learned Commissioner for Income Tax (Appeals), Annexure-B dated **23.09.2004,** in which a Tabular chart of the "Tax Effect" for all the Assessment Years **1997-98 to 2002-03**, the "Tax Effect" is much less than Rs.20,00,000/- for all the assessment years taken together in question.

3. Therefore, the said appeals filed by the appellant-Revenue are sought to be withdrawn in view of the said CBDT Circular dated **10.12.2015**.

4. However, the learned counsel for the appellant-Revenue Mr. E. I. Sanmati brought to our notice the order of the Hon'ble Supreme Court in the case of ***Director of Income Tax vs. S.R.M.B. Dairy Farming Pvt. Ltd. (2017) 299 CTR 0321 (SC) : (2017) 160 DTR 0129 (SC) : (2018) 400 ITR 0009 (SC),*** in which the Hon'ble Supreme Court has observed with reference to similar earlier Instructions No.3 of 2011 dated **09.02.2011,** which prescribed the monetary limit of

Rs.10,00,000/-, but in such cases when the matter had a cascading effect and where common principles may be involved in subsequent group of matters or a large number of matters, the said Instructions would not apply.

5. Except referring to the said judgment of the Hon'ble Supreme Court, the learned counsel for the appellant-Revenue has failed to place any material before us that the present appeals filed by the Revenue has any such cascading effect or "Tax Effect" beyond Rs.20,00,000/-. On the contrary, as noted above, the tax effect in all the present five appeals taken together is much less than Rs.20,00,000/-.

6. In view of the above, the present appeals by the appellant-Revenue deserve to be dismissed as withdrawn in accordance with CBDT Circular No.21/2015 in F.No.279/Misc.142/2007-ITJ (Pt) dated **10th December 2015**. Para No.10 of the CBTD Circular No.21/2015 is quoted below for ready reference:

"10. This instruction will apply retrospectively to pending appeals and appeals to be filed henceforth in High Courts/Tribunals. Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed. Appeals before the Supreme Court will be governed by the instructions on this subject, operative at the time when such appeal was filed."

7. In view of this, appeals are dismissed as withdrawn.

Sd/-
JUDGE

Sd/-
JUDGE

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