

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH : BANGALORE**

**BEFORE SHRI A. K. GARODIA, ACCOUNTANT MEMBER AND  
SMT. BEENA PILLAI, JUDICIAL MEMBER**

<b>ITA No. 619 &amp; 700/Bang/2019</b>
<b>Assessment years : 2014 – 15 &amp; 2015 – 16</b>

Shree Likhith Kothari, No. 39, Link Road, Seshadripuram, Bangalore – 560020 <b>PAN : AGEPL1523D</b>	Vs.	ITO ward – 2 (2) (1), Bengaluru
APPELLANT		RESPONDENT

Assessee by	:	Shree Prashanth G. S., C. A.
Revenue by	:	Shree Priyadarshi Mishra, JCIT DR
Date of hearing	:	30.09.2020
Date of Pronouncement	:	30.09.2020

**ORDER**

***PER ARUN KUMAR GARODIA, A. M.:***

Both these appeals are filed by the assessee and the same are directed against two separate orders of learned CIT (A) – 2 Bengaluru both dated 31.01.2019.

Both appeals were heard together and are being disposed of by this common order for the sake of convenience.

2. The assessee has raised several identical grounds in both years but the effective grievance is only one in each year about disallowing of exemption

claimed by the assessee u/s 10 (38) of Rs. 56,74,370/- in A. Y. 2014 – 15 and Rs. 63,32,973/- in A. Y. 2015 – 16 on account of sale of Shares of M/s Sunrise Asian Limited.

3. In course of hearing, this was the submission of the learned AR of the assessee that he is placing reliance on four judicial pronouncements of which copy is filed by him in the Case law Compilation of 25 pages which includes one judgment of Hon'ble Karnataka High Court rendered in the case of Mrs. Chandra Devi Kothari in W. P. No. 39370/2014 ( T – IT) dated 02.02.2015, copy on pages 1 to 7 of the Case law Compilation and in particular, our attention was drawn to para 8 of this judgment and it was pointed out that as per this para, similar matter was restored to the AO for fresh decision with the direction that the AO should decide the issue afresh after providing fair and reasonable opportunity of hearing to the assessee and after furnishing the details/copy of the statement on which impugned assessment order has been passed. Thereafter he submitted that the second judgment on which he is placing reliance is a tribunal order rendered in the case of Shri Vinod Kothari (HUF) vs. ITO in ITA No. 698/bang/2019 dated 03.07.2019, copy on pages 8 to 13 of the Case law Compilation and he pointed out that in this case, the tribunal followed the same judgment of Hon'ble Karnataka High Court rendered in the case of Mrs. Chandra Devi Kothari (Supra) and reproduced

para 8 of that judgment of Hon'ble Karnataka High Court and similar matter was restored to the AO for fresh decision with the same direction as were given by Hon'ble Karnataka High Court in para 8 of that judgment. Thereafter he submitted that the third judgment on which he is placing reliance is also a tribunal order rendered in the case of Shri Suresh J Kothari (HUF) vs. ITO in ITA No. 650/bang/2019 dated 31.07.2019, copy on pages 14 to 17 of the Case law Compilation and he pointed out that in this case, the tribunal followed the same tribunal order rendered in the case of Shri Vinod Kothari (HUF) vs. ITO (Supra) and in turn followed the judgment of Hon'ble Karnataka High Court rendered in the case of Mrs. Chandra Devi Kothari (Supra) and reproduced para 4.3.1 to 4.3.2 of that tribunal order and similar matter was restored to the AO for fresh decision with the same direction as were given by Hon'ble Karnataka High Court in para 8 of that judgment. Thereafter he submitted that the fourth judgment on which he is placing reliance is also a tribunal order rendered in the case of Shri Vinod Kothari (HUF) vs. ITO and Shri Pradeep Kothari (HUF) vs. ITO in ITA Nos. 681 & 661/Bang/2019 dated 17.01.2020, copy on pages 18 to 25 of the Case law Compilation and he pointed out that in this case, the tribunal followed the same tribunal order rendered in the case of Shri Suresh J Kothari (HUF) vs. ITO (Supra) and in turn followed the earlier tribunal order rendered in the case of Shri Vinod Kothari (HUF) vs. ITO (Supra) and also the judgment of Hon'ble Karnataka High Court rendered

in the case of Mrs. Chandra Devi Kothari (Supra) and reproduced para 5 of that tribunal order and similar matter was restored to the AO for fresh decision with the same direction as were given by Hon'ble Karnataka High Court in para 8 of that judgment. He submitted that in the present case also, the matter may be restored to AO with similar direction.

4. As against this, learned DR of the revenue supported the orders of the lower authorities and placed reliance on a tribunal order passed by Delhi Bench of the tribunal and on a judgment of Hon'ble Delhi High Court and submitted that he will furnish a copy of these two judicial pronouncements on which he is placing reliance. At this juncture, the bench observed that unless he points out some difference in facts in the present case and in the case of Mrs. Chandra Devi Kothari (Supra), this bench is bound to follow the judgment of Hon'ble Karnataka High Court rendered in the case of Mrs. Chandra Devi Kothari (Supra) in preference to the judicial pronouncements on which he is placing reliance but he could not point out any difference in facts.

5. We have considered the rival submissions and since, learned DR of the revenue could not point out any difference in facts in the present case and in the case of Mrs. Chandra Devi Kothari (Supra), this bench is bound to follow this judgment of Hon'ble Karnataka High Court rendered in the case of Mrs.

Chandra Devi Kothari (Supra) in preference to the judicial pronouncements on which learned DR of the revenue placed reliance. Respectfully following the same, we set aside the order of CIT (A) in both years and restore this matter to the AO for fresh decision with the same directions as were given by Hon'ble Karnataka High Court in para 8 of that judgment. The assessee should produce before the AO, a copy of this judgment of Hon'ble Karnataka High Court rendered in the case of Mrs. Chandra Devi Kothari (Supra) and the AO should pass necessary order as per law after providing fair and reasonable opportunity of hearing to the assessee and after furnishing the details/copy of the statement on which impugned assessment order has been passed. In view of this, no adjudication is called for about any other ground raised before the tribunal.

6. In the result, both these appeals of the assessee are allowed for statistical purposes.

*Pronounced in the open court on the date mentioned on the caption page.*

Sd/-

**(BEENA PILLAI)**  
**Judicial Member**

Bangalore,

Dated: 30<sup>th</sup> September, 2020.

/NS/\*AKG

Sd/-

**(A.K. GARODIA)**  
**Accountant Member**

Copy to:

1. Appellants
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar,  
ITAT, Bangalore.