

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

**BEFORE SHRI N. V. VASUDEVAN, VICE PRESIDENT AND  
SHRI A. K. GARODIA, ACCOUNTANT MEMBER**

<b>ITA No. 1333/Bang/2016</b>
<b>Assessment year : 2011 – 12</b>

ACIT (E) Circle – 1, Bengaluru.	Vs.	M/s Karnataka Industrial Area Development Board, 143, R. P. Building, 2 <sup>nd</sup> Floor, Nrupatunga Road, Bengaluru – 560 001. <b>PAN : AAATK1350J</b>
APPELLANT		RESPONDENT
Assessee by	:	Shri Padam Chand Khincha, C. A.
Revenue by	:	Smt. Vandana Sagar, CIT DR
Date of hearing	:	15.10.2020
Date of Pronouncement	:	19.10.2020

**ORDER**

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

This appeal is filed by the revenue and the same is directed against an order of learned CIT(A) – 14, LTU, Bengaluru dated 20.04.2016.

2. In this appeal, although various grounds are raised by the revenue but there are only two grievances. First grievance is this that learned CIT (A) is not justified in holding that proviso to section 2 (15) is not applicable in the present case. Second grievance is this that learned CIT (A) is not justified in holding that depreciation is allowable in the present case by ignoring the judgment of Hon’ble Kerala High Court rendered in the case of Lissie Medical Institution vs. CIT, 348 ITR 344 and

judgment of Hon'ble Supreme Court rendered in the case of Escorts Ltd. vs. UOI, 199 ITR 43

3. In course of hearing, learned DR of the revenue supported the assessment order on both issues and learned AR of the assessee supported the order of CIT (A) on both issues. Learned AR of the assessee also submitted that on pages 373 to 388 of the paper book is the judgment of Hon'ble Karnataka High Court rendered in assessee's own case in ITA No. 205 of 2016 dated 30.09.2020 and in this judgment in Para 8 on page 385, it is noted by Hon'ble Karnataka High Court that the tribunal has held that the proviso to section 2 (15) is not applicable in case of this assessee and thereafter, in para 9. on page 385, it is noted by Hon'ble Karnataka High Court that the order passed by the tribunal is based on meticulous appreciation of materials on record and it is not perverse by any stretch of imagination and confirmed the tribunal order. He submitted that the first issue raised by the revenue is squarely covered in favour of the assessee by this judgment of Hon'ble Karnataka High Court rendered in assessee's own case. Regarding the second issue i.e. regarding allowability of depreciation in the present case, Learned AR of the assessee placed reliance on the tribunal order rendered in the own case of the assessee for A. Y. 2012 – 13 in ITA No. 951/Bang/2017 dated 03.07.2020 copy on pages 345 to 362 of the paper book and pointed out that in Paras 14 to 16 of this tribunal order on pages 360 and 361 of the paper book, the tribunal has followed a judgment of Hon'ble Supreme Court rendered in the case of CIT vs. Rajasthan and Gujarat Charitable Foundation Poona as reported in 89 taxman.com 127 and decided this issue in favour of the assessee.

4. We have considered the rival submissions. We find that the first issue is squarely covered in favour of the assessee by the judgment of Hon'ble Karnataka High Court rendered in assessee's own case. Similarly, second issue is also squarely covered in favour of the assessee by the tribunal order in assessee's own case in which, the tribunal has followed a judgment of Hon'ble Supreme Court rendered in the case of CIT vs. Rajasthan and Gujarat Charitable Foundation Poona (Supra). Hence, we decline to interfere in the order of CIT (A).

5. In the result, the appeal of the revenue is dismissed.

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

Sd/-  
**(N. V. VASUDEVAN)**  
**Vice President**

Sd/-  
**(A.K. GARODIA)**  
**Accountant Member**

Bangalore,  
Dated: 19<sup>th</sup> October, 2020.

/NS/\*AKG

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

By order

Assistant Registrar,  
ITAT, Bangalore.