

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

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

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| ITA No.1399/Bang/2024 |
| Assessment Year : 2011-12 |

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| Mohammed Shuaib, No.1, A Street, Coles Road Cross Frazer Town, Bangalore – 560 005. PAN : AVZPS 8507 Q | Vs. | ITO, Ward – 1(2)(1), Bangalore. |
| APPELLANT | | RESPONDENT |

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| Assessee by | : | Smt. Pratibha R, Advocate |
| Revenue by | : | Ms. Neha Sahay, JCIT(DR)(ITAT), Bangalore. |

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| Date of hearing | : | 10.10.2024 |
| Date of Pronouncement | : | 10.10.2024 |

ORDER

Per George George K, Vice President:

This appeal at the instance of the assessee is directed against the Order of CIT(A) dated 28.05.2024, passed under section 250 of the Income Tax Act, 1961 (hereinafter called ‘the Act’). The relevant Assessment Year is 2011-12.

2. At the very outset, we notice that CIT(A) has partly allowed the appeal of the assessee by quashing the reassessment order. However, for academic purposes, the CIT(A) also has adjudicated the issues raised on merits. The relevant finding of the CIT(A) in quashing the reassessment order reads as follow:

“6.4 The appellant in his grounds of appeal 4 and 5 has assailed the AO for not disposing off the objections filed by the appellant on the reasons

furnished by the appellant which is contrary to the decision of the Hon'ble Supreme Court in the case of GKN Driveshaft 259 ITR 19.

6.4.1 The perusal of the assessment order shows that the objections raised by the appellant were duly considered by the AO as the appellant's objection on one of the reasons for reopening the case was accepted and no addition has been made on the same but there is no mention in the assessment order whether the objections raised by the appellant in his letter dated 25.6.2018 were disposed of by a speaking order or not. The submission of the appellant was forwarded to the AO for his comments but no response has been received from the AO and in the absence of the same it is presumed that the contention raised by the appellant is valid and the AO has not disposed of the objections as raised by the appellant. In view of the same and respectfully following the judgment of the Hon'ble Supreme Court in the case of G.K.N. Driveshaft the assessment made by the AO is set aside. The grounds of appeal 4 and 5 are allowed.

6.5 Although the assessment has been set aside the remaining grounds of appeal are discussed for academic purpose.”

3. The learned DR submitted that she fails to understand how assessee is aggrieved by the CIT(A)'s Order since the reassessment Order has been set aside. It was further submitted by the learned DR that the Revenue till date has not filed an appeal as against the Order of the CIT(A).

4. The learned AR submitted that only out of abundant caution to keep the issue alive, assessee has filed the present appeal before the Tribunal.

5. We have heard the rival submissions and perused the material on record. As rightly pointed by the learned DR, CIT(A) has set aside the reassessment order. However, the grounds on merits were adjudicated for academic purposes by the CIT(A). Since the Revenue has not filed so far an appeal against the CIT(A)'s Order, this appeal is only academic and is rendered infructuous. In the event the Revenue files an appeal, assessee shall be at liberty to file cross appeal / cross objection if he is so advised. It is ordered accordingly.

6. In the result, appeal filed by the assessee is dismissed.

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

Sd/-

(LAXMI PRASAD SAHU)
Accountant Member

Sd/-

(GEORGE GEORGE K)
Vice President

Bangalore.

Dated: 10.10.2024.

/NS/*

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| 1. Appellants | 2. Respondent |
| 3. DRP | 4. CIT |
| 5. CIT(A) | 6. DR, ITAT, Bangalore. |
| 7. Guard file | |

By order

Assistant Registrar,
ITAT, Bangalore.