

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 26TH DAY OF SEPTEMBER 2014

PRESENT

THE HON'BLE MR.JUSTICE N.KUMAR

AND

THE HON'BLE MRS.JUSTICE RATHNAKALA

INCOME TAX APPEAL NO.316 OF 2009

BETWEEN:

1. THE COMMISSIONER OF INCOME TAX,
No.55/1, SHILPASHREE,
VIDYARANYA COMPLEX,
VISHVESHWARANAGAR,
MYSORE - 570 008.

2. THE DY. COMMISSIONER OF INCOME TAX,
CIRCLE 1,
HASSAN.

...APPELLANTS

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

AND:

SRI.H.D.GOPAL @ GOPALAKRISHNA
M/S.H.D.GOPAL & BROTHERS
B.M.ROAD
HASSAN

...RESPONDENT

THIS INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF I.T. ACT, 1961 ARISING OUT OF ORDER DATED 30.01.2009 PASSED IN ITA.No.1083/Bang/2008, FOR THE ASSESSMENT YEAR 2000-01, PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO:

- I. FORMULATE THE SUBSTANTIAL QUESTIONS OF LAW STATED THEREIN,
- II. ALLOW THE APPEAL AND SET ASIDE THE ORDER PASSED BY THE ITAT BANGALORE IN ITA NO.1083/BANG/2008, DATED 30-1-2009 AND CONFIRM THE ORDER PASSED BY THE DEPUTY COMMISSIONER OF INCOME TAX, CIRCLE-1, HASSAN, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS ITA COMING ON FOR ORDERS THIS DAY, **N.KUMAR J.**, DELIVERED THE FOLLOWING:

J U D G M E N T

The appeal was admitted on 27.06.2011, to consider the following substantial questions of law:

- “1. Whether the Tribunal was correct in holding that the penalty levied was liable to be set aside as the revised return filed belatedly disclosing additional income was not an account of detection by the department and therefore there was no conclusion to attract penalty provision?*
- 2. Whether the Tribunal was correct in relying on the judgment of the Apex Court in the case of CIT Vs. SURESH CHANDRA METAL (251 ITR 124 of the Madhya Pradesh High Court which had relied on the judgment of the Apex Court in Sri Shadilal Sugar and General Mills Ltd., Vs. CIT 168 ITR 705 which has been reversed by the Apex Court in*

*K.P.Madhusudhan Vs. CIT 251 ITR 99 in
view of the subsequent amendment to
Section 271 of the Act?*

2. The aforesaid questions were also involved in ITA No.319/2009, in respect of the same assessee, wherein, this Court answered in favour of the assessee. Therefore, following the judgment in ITA No.319/2009, this appeal is also dismissed.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

nvj