HC-KAR

NC: 2026:KHC-D:2856-DB
ITA No. 100011 of 2020

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 23RD DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE M.I.ARUN

AND

THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

INCOME TAX APPEAL NO. 100011 OF 2020

BETWEEN:

1. THE PR. COMMISSIONER OF INCOME TAX,
NAVANAGAR, HUBLI.

2. ASST. COMMISSIONER OF INCOME TAX,
CIRCLE-3(1), HUBLI.

... APPELLANTS

(BY SRI M. THIRUMALESH, ADVOCATE IS APPEARED THROUGH VC)

AND:

THE VRL LOGISTICS LTD.,
VARUR, POST: CHABBI,
HUBLI-581 207.

... RESPONDENT

(BY SRI A. SHANKAR, SENIOR COUNSEL FOR SRI SHASHANK S. HEGDE, ADVOCATE)

THIS ITA FILED UNDER SECTION 260A OF THE INCOME-TAX ACT, 1961, PRAYING TO FORMULATE THE SUBSTANTIAL QUESTION OF LAW STATED ABOVE; ALLOW THE APPEAL AND SET ASIDE THE ORDERS PASSED BY THE INCOME-TAX APPELLATE TRIBUNAL, BANGALORE BENCHES 'A' BENCH, BANGALORE IN ITA NO.1412/BANG/2019, DATED 11.03.2020 AND CONFIRM THE ORDER DATED 30.12.2016 PASSED BY THE ASST. COMMISSIONER OF INCOME TAX OFFICER, CIRCLE-3(1), HUBBALLI FOR THE A.Y.2014-15, IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.

THIS APPEAL IS COMING ON FOR HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE M.I.ARUN
AND
THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE M.I.ARUN)

1. Aggrieved by the order passed by the Income Tax Appellate Tribunal in ITA No.1412/BANG/2019 dated 11.03.2020, the present appeal is filed by the Revenue.

2. The Assessee is engaged in the business of generation of electricity through windmills. Owing to the nature of its business, it accumulated carbon credits, which were subsequently sold in the open market for consideration.

3. The amount earned through the sale of carbon credits was sought to be taxed as a revenue receipt by the Assessing Officer. However, the same was held otherwise by the Commissioner as well as the Income Tax Appellate Tribunal. Aggrieved by the said findings, the present appeal is filed by the Revenue.

4. Based on the pleadings, this Court, by order dated 18.08.2025, framed the following substantial questions of law:

"1. Whether, on the facts and in the circumstances of the case and in law, the Tribunal was justified in law in holding that the sum of Rs.6,08,73,000/- received by the assessee-company, on the sale of Certified Emission Reduction (CER) or Carbon Credits is a capital receipt, ignoring the fact that the assessee company itself has shown the said amount as a revenue receipt, under the head 'Profits and gains of business or profession', having credited the said amount in its P&L account under the head, 'Revenue from operations' and sub-head 'Sale of goods'?

2. Whether, on the facts and in the circumstances of the case and in law, the Tribunal was justified in law in treating the receipts from sale of CERs as capital receipt, not exigible to tax as revenue receipts, without appreciating the fact that such income from Carbon Credits is admittedly a benefit arising out of the business of the assessee, and would fall within the definition of "Income" u/s. 2(24)(vd) read with section 28(iv) of the Act.

3. Whether, on the facts and in the circumstances of the case and in law, the Tribunal has failed to appreciate that the income on the sale of CERs is "attributable to" the business of the assessee, but is not the direct source of income from the industrial undertaking of the *assessee and thus, cannot be treated as profit "derived from" the industrial undertaking whereby, the assessee is not entitled for claim of deduction u/s.80IA of the Act in respect of sale of CERs."*

5. The impugned order is passed by the Income Tax Appellate Tribunal for the following reasons.

"4. At the time of hearing, the ld. DR submitted that the CIT (Appeals) has erred in granting relief irrespective of the fact that the decision relied on by the CIT (Appeals) has been challenged at higher forums by the revenue. Whereas the learned Authorized Representative supported the orders of the CIT(Appeals) relying on the assessee own case for the A.Y. 2013-14. We found the Ld CIT(Appeals) has dealt on the disputed issue at page 3 paras 5 & 6 of the order and granted relief which is read as under :

5. The ITAT, 'B' bench, Bengaluru, in order Dt.05.09.2018, for A.Y.2013-14, in I.T.A. No.2783/Bang/2017, in the case of VRL Logistics Ltd Vs. ACIT, had relied upon order of the ITAT 'B' bench, Bengaluru in the case of M/s.Ambuthirtha Power P. Ltd., Dt.06.07.2018, and the order of the hon'ble Karnataka High Court, in the case of CIT Vs Subash Kabini Power Corporation Ltd. (supra), wherein it was held that ""when the carbon credit is generated out of environmental concerns, and it is not having the character of trading activity, the Tribunal has rightly held that it is rightly held that it is capital receipt and it is not income out of business and hence, not liable to *pay income tax", to hold that receipts on sale of carbon credits is capital in nature and not exigible to tax as revenue receipts. The ITAT also held that there was therefore no merit in the alternative ground of the assessee that deduction U/s.80IA is allowable on such carbon credits receipts.*

6. Respectfully following the decision of the ITAT, 'B' Bench, Bengaluru, vide order Dt.05.09.2018, in the assessee's own case for A.Y.2013-14, while relying on the order of the hon'ble Karnataka High Court in the case of CIT Vs. Subash Kabini Power Corporation Ltd. and decision of the co-ordinate bench of ITAT, 'B' Bench, Bengaluru, in the case of M/s.Ambuthirtha Power P. Ltd., I, hold that the carbon credit receipts are capital receipts, and there is no merit in the alternative ground submitted by the assessee that deduction U/s.80IA is allowable on such receipts.

5. The learned Departmental Representative could not controvert the observations of the CIT(Appeals) with any new or cogent material. Accordingly, we are not inclined to interfere with the order of CIT(Appeals) and uphold the same and dismissed the grounds of appeal of revenue."

6. Learned counsel for the Revenue is not in a position to demonstrate as to how the conclusion arrived at by the Appellate Tribunal is erroneous.

7. Once the income is held not to be a revenue receipt and is treated as a capital receipt, the question of treating it as income chargeable to tax as a revenue receipt does not arise.

8. Under the circumstances, we do not find any error in the order passed by the Appellate Tribunal. Accordingly, the first two substantial questions of law framed by this Court are held against the Revenue. Consequently, the third substantial question of law does not arise for consideration.

9. For the aforementioned reasons, the appeal stands dismissed.

Sd/-
(M.I.ARUN)
JUDGE

Sd/-
(B. MURALIDHARA PAI)
JUDGE

VB/CT:BCK
LIST NO.: 1 SL NO.: 38