Shri Narayan Rao Hebri vs The Assistant Commissioner Of Income ... — ITA No. 166 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED THIS THE 20TH DAY OF FEBRUARY, 2026 PRESENT THE HON'BLE MR. JUSTICE S.G.PANDIT AND THE HON'BLE MR. JUSTICE K. V. ARAVIND INCOME TAX APPEAL No. 166 OF 2025 BETWEEN:

1. SHRI NARAYAN RAO HEBRI, (PAN: AASPH2926A; S/O SHRI DHUMANNA, AGE ABOUT 71 YEARS) (RESIDING AT No.1, CHINNA, S. N. NAGAR MAIN ROAD, SAGAR 577204). ...APPELLANT Digitally (BY SRI K.K. CHYTHANYA, SENIOR COUNSEL A/W signed by VINUTHA B S SRI TATA KRISHNA, ADVOCATE) Location: AND: High Court of Karnataka

1. THE ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE-1, SHIMOGA, I. T. OFFICE, SHIMOGA, No.75, 100FT ROAD, GOPAL GOWDA EXTENSION, SHIVAMOGA, KARNATAKA-577201. ...RESPONDENT (BY SRI Y.V. RAVIRAJ, SENIOR STANDING COUNSEL) -2- ITA No. 166 of 2025 THIS ITA/ INCOME TAX APPEAL IS FILED UNDER SECTION 260-A OF INCOME TAX ACT 1961, PRAYING TO DECIDE THE FOREGOING QUESTION OF LAW AS MAY BE ALLOW THE APPEAL AND SET ASIDE THE IMPUGNED ORDER (IN SO FOR AS SAME IS PREJUDICIAL TO THE APPELLANT) OF THE INCOME TAX APPELLATE TRIBUNAL, BENGALURU, C BENCH IN ITA No.2051/BANG-2024 DATED 22.05.2025 FOR THE IMPUGNED AY 2017-18 AS ENCLOSED IN ANNEXURE-A. THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, K.V. ARAVIND J., DELIVERED THE FOLLOWING:- CORAM: HON'BLE MR. JUSTICE S.G.PANDIT and HON'BLE MR. JUSTICE K. V. ARAVIND C.A.V. JUDGMENT (PER: HON'BLE MR. JUSTICE K. V. ARAVIND) Heard Sri K.K. Chythanya, learned Senior counsel along with Sri Tata Krishna, learned counsel for the appellant- Assessee and Sri Y.V. Raviraj, learned Senior Standing Counsel for the respondent-Revenue.

2. This appeal is filed by the assessee under Section 260A of the Income-tax Act, 1961 (for short, "the I.T. Act"), assailing the order dated 22.05.2025 passed in ITA No.2051/Bang/2024 by the Income Tax Appellate Tribunal, 'C' Bench, Bengaluru (for short, "the Tribunal"), relating to the Assessment Year 2017-

18. -3- ITA No. 166 of 2025

3. The appellant-assessee has raised the following substantial questions of law: " (i) Whether on the facts and circumstances of the case, the tribunal is right in law in perversely upholding taxation of non-existent income of Rs.1,14,20,100/- merely based on the statement obtained under Section 133A and return of income, without any corroborative evidences or adverse finding against the appellant? (ii) Whether on the facts and circumstances of the case, the Tribunal is justified in refusing to decide the taxability of non-existent income wrongly offered during survey and in return, based on perverse findings?"

4. The facts, in brief, are that the assessee filed its return of income on 20.11.2017 declaring total income of Rs.1,91,25,040/-. The Assessing Officer issued a notice under Section 143(2) of the Income-tax Act, 1961 (for short, "the I.T. Act") on 11.08.2018, which came to be served on 23.08.2018, calling for scrutiny of the assessment. The assessee is engaged in the business of real estate. The return of income was selected for scrutiny to verify the payment of tax in cash during the demonetization period. -4- ITA No. 166 of 2025 4.1 The assessment order records that a survey under Section 133A of the I.T. Act was conducted on 27.09.2016 and that, pursuant thereto, the assessee, by letter dated 29.09.2016, volunteered to offer a sum of Rs.1,14,20,100/- as additional income. The notice under Section 143(2) of the I.T. Act relates to a cash payment of Rs.24,00,000/- made by the assessee. 4.2 In addition to the income declared by the assessee, the Assessing Officer made an addition towards long-term capital gains and treated the sum of Rs.1,14,20,100/-, so declared, along with the unexplained cash of Rs.24,00,000/-, as income from other sources and subjected the same to tax under Section 115BBE of the I.T. Act. The assessment was completed by order dated 17.07.2019. 4.3 Aggrieved thereby, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals)[CIT(A)], National Faceless Appeal Centre(NFAC), New Delhi. Before the CIT(A), the assessee raised grounds challenging the addition of Rs.24,00,000/- and the correctness of invoking the provisions of Section 115BBE of the I.T. Act in respect of the additional income of Rs.1,14,20,100/-, and also the levy of tax at the rate -5- ITA No. 166 of 2025 of 60%. The CIT(A) dismissed the appeal, confirming the taxation of both Rs.24,00,000/- and Rs.1,14,20,100/- at the rate of 60% under Section 115BBE of the I.T. Act. 4.4 The assessee, being further aggrieved, preferred an appeal before the Tribunal. Before the Tribunal, the assessee contended that the provisions of Section 115BBE of the I.T. Act were not applicable insofar as the sum of Rs.1,14,20,100/- was concerned. With regard to the addition of Rs.24,00,000/-, the assessee disputed the same as unexplained income. The assessee further contended before the Tribunal that the additional income of Rs.1,14,20,100/- was offered in the absence of any incriminating material or supporting evidence and, therefore, was not exigible to tax. It was submitted that the said income was offered solely on the basis of an admission made during the course of the survey proceedings. 4.5 The Tribunal, however, held that since the said income was voluntarily offered by the assessee and the return of income was filed after the survey admitting such income, the assessee was not entitled to seek exclusion of the admitted income. The Tribunal also observed that the return of income had been selected for scrutiny only with reference to the -6- ITA No. 166 of 2025 addition of Rs.24,00,000/-. However, insofar as the addition of Rs.24,00,000/- was concerned, the Tribunal accepted the contention of the assessee and deleted the said addition.

5. Sri K. K. Chythanya, learned Senior Counsel, along with Sri Tata Krishna, learned counsel appearing for the appellant- assessee, submitted that a survey was conducted on 27.09.2016 and that, in the course of the said survey, an admission was obtained on 29.09.2016 offering a sum of Rs.1,14,20,100/-. It is submitted that the said amount is not exigible to tax and that its inclusion in the return of income was the result of coercion during the course of the survey proceedings. It is further submitted that the Tribunal is empowered to delete even the income admitted in the return, unless it is demonstrated that such income is taxable under the provisions of the I.T. Act.

6. Per contra, Sri Y. V. Raviraj, learned Senior Standing Counsel appearing for the respondent-Revenue, submitted that a survey was conducted on 27.09.2016 and that the assessee, by communication dated 29.09.2016, agreed to offer a sum of Rs.1,14,20,100/- as income. It is submitted that the return of income was thereafter filed on 20.11.2017, more than fourteen -7- ITA No. 166 of 2025 months after the date of the survey, and, therefore, the contention that the income was admitted under coercion is wholly untenable. 6.1 It is further

submitted that the alleged wrongful inclusion of the said income was never questioned before the Assessing Officer, even though the return was selected for scrutiny. Such a ground was not urged even before the CIT(A). On the contrary, the only contention raised before the CIT(A) was with regard to the non-applicability of Section 115BBE of the I.T. Act and a prayer to tax the said income at the normal rate. It is, therefore, submitted that the Tribunal was justified in dismissing the appeal filed by the assessee.

7. Having considered the submissions of learned counsel for the parties, we notice that a survey under Section 133A of the I.T. Act, 1961 was conducted on 27.09.2016. Pursuant thereto, the assessee addressed a letter dated 29.09.2016 to the Assessing Officer, voluntarily offering a sum of Rs.1,14,20,100/- as income for the Assessment Year 2017-18. The said income was admitted in the return of income filed on 20.11.2017 and the corresponding taxes were paid. -8- ITA No. 166 of 2025 7.1 The return of income was selected for scrutiny only to examine the payment of Rs.24,00,000/- made in cash during November 2016 towards income tax and the source thereof. No other issue was the subject-matter of scrutiny by the Assessing Officer. However, the Assessing Officer treated both the unexplained cash of Rs.24,00,000/- and the sum of Rs.1,14,20,100/- as income from other sources under Section 115BBE of the I.T. Act and subjected the same to tax at the rate of 60%. 7.2 The contention of the assessee is that the additional income was admitted in the return on account of coercion exercised during the course of the survey and on the basis of the letter dated 29.09.2016, which, according to the assessee, was forcibly obtained by the Assessing Officer. The said submission is untenable for more than one reason. The assessee filed the return of income on 20.11.2017 under Section 139(1) of the I.T. Act and had the statutory opportunity to revise the return under Section 139(5) of the I.T. Act. Admittedly, the assessee neither retracted the letter dated 29.09.2016 admitting the additional income nor revised the return of income. The assessee also paid tax on the income so admitted. -9- ITA No. 166 of 2025 7.3 Further, when the assessment was completed by adding the additional income and subjecting the same to tax at the rate of 60% under Section 115BBE of the I.T. Act, the assessee, in the appeal before CIT(A), challenged only the applicability of Section 115BBE and not the taxability of the additional income itself. For the first time before the Tribunal, the assessee contended that the additional income declared was based solely on a statement recorded during the course of the survey and was unsupported by any evidence. The Tribunal rejected the said contention. 7.4 In this context, it is relevant to refer to the grounds raised by the assessee before the CIT(A), which are as under: "2. GROUNDS OF APPEAL:- Aggrieved by the above order, the appellant preferred an appeal before the Commissioner of Income Tax (Appeal), with the following grounds of appeal: "1. The order of the learned A.O. in so far as it is against the appellant is opposed to law, equity, weight of evidence, probabilities, facts and circumstances of the case.

2. The learned A.O, is not justified in adding a sum of Rs. 24,00,000/- as unexplained cash u/s. 68 of the Act, under the facts and in the circumstances of the appellant's case. - 10 - ITA No. 166 of 2025 2.1 The addition made by the learned A.O. u/s.68 of the Act is purely on suspicion and surmise, assumptions and presumptions and is contrary on the materials available on record and the addition made requires to be deleted.

3. The learned A.O. is not justified in invoking the provisions of section 115BBE and taxing the additional income of Rs. 1,14,20,100/- at the rate of 60% under the facts and in the circumstances of the appellant's case.

4. Without prejudice to the right to seek waiver with the Hon'ble CCIT/DG, the appellant denies himself liable to be charged to interest u/s. 234- A, 234-B and 234-C of the Act, which under the facts and in the circumstances of the appellant's case and the same deserves to be cancelled.

5. For the above and other grounds that may be urged at the time of hearing of the appeal, your appellant humbly prays that the appeal may be allowed and Justice rendered." 7.5 The Assessee raised the following grounds before the Tribunal; "1. The Order of the Learned Commissioner (Appeals) as far as it is prejudicial to the interest of the Appellant is not justified in law and on facts and circumstances of the case.

2. The Assessment Order passed under section 143(3) is bad as the Learned Assessing Officer having proposed to complete assessment ex-parte, ought to have passed the said order only under section 144. - 11 - ITA No. 166 of 2025

3. As regards additional income of Rs.1,14,20,100/-. 3.1 The Lower Authorities are not justified in assessing the additional income of Rs.1,14,20,100/- declared by the Appellant in his return of income merely on the basis of statement recorded without any evidence collected in the course of the said survey. 3.2. The Lower Authorities have erred in levying tax on an additional income offered by the Appellant is in contravention of the Article 265 of the Constitution of India, Instruction F. No. 286/2/2003-IT (INV. II), dated 10.03.2003, Letter [F.No. 286/98/2013-IT(INV.II)], dated 18.12.2014 and Circular No.14(XL-35), dated 11.04.1955.

4. Without prejudice, as regards levying tax & surcharge by invoking section 115BBE: 4.1. The Learned Assessing Officer's action of invoking section 115BBE when the case of the Appellant was selected for 'Limited Scrutiny', is in defiance of Circular F. No. 225/402/2018/ITA.II, dated 28.11.2018 and hence levying tax & surcharge under section 115BBE is void ab initio and bad in law. 4.2. The Learned Commissioner (Appeals) is not justified in upholding the action of the Learned Assessing Officer in levying tax & surcharge under section 115BBE in the appellate proceeding by failing to appreciate that the Learned Assessing Officer never proposed to do the same in any of the notices issued during assessment proceeding. - 12 - ITA No. 166 of 2025 4.3. The Lower Authorities have erred in applying section 115BBE when the amount surrendered during survey was on account of difference in cash and other deficiencies and not on account of any of the sections in Chapter VI. 4.4. Without prejudice to the above, the Learned Commissioner (Appeals) has erred in upholding the action of the Learned Assessing Officer in levying tax & surcharge under section 115BBE by failing to appreciate that (i) the Learned Assessing Officer never invoked any of the sections 68, 69, 69A, 69B, 69C & 69D of the IT Act and (ii) the Learned Assessing Officer levied tax & surcharge under section 115BBE merely on the basis that the additional income was offered under the head income from other sources'. 4.5. Without prejudice to the above, the Learned Commissioner (Appeals) has erred in upholding the action of the Learned Assessing Officer in levying tax & surcharge under section 115BBE, by failing to appreciate that Section 68 does not get attracted when the conditions of the said section are not satisfied. 4.6. The Learned Commissioner (Appeals) is not justified in making various observations which are purely his ipse dixit, perverse and contrary to the facts, being based on surmises and conjecture.

5. As regards addition of Rs.24,00,000/-: 5.1. The Learned Commissioner (Appeals) is not justified in upholding the action of the Assessing Officer - 13 - ITA No. 166 of 2025 in making addition of Rs.24,00,000/-representing cash deposit as unexplained cash credit under section 68, when the conditions of the said section are not satisfied. 5.2. The Learned Commissioner (Appeals) is not justified in upholding the impugned addition when the Appellant established that he had sufficient source for deposit of cash to the bank account. 5.3. The Lower Authorities are not justified in rejecting the explanation of the Appellant of cash withdrawals being the source of Rs.24,00,000/- by taking

unsustainable contentions that the Appellant could not have held the cash for a long time and ought to have deposited the cash in the bank, thereby stepping into the shoes of the Appellant. 5.4. The Lower Authorities, having failed to bring on record any evidence to establish that the cash drawn was used for any other purpose, ought to have accepted the explanation of the appellant that the cash withdrawn was used for making tax payment. 5.5 Without prejudice and assuming without conceding that the statement recorded during the survey under section 133A is reliable, the Lower Authorities are not justified in failing to read the said statement wholly and fully but reading the same to their convenience. 5.6. The Learned Commissioner (Appeals) is not justified in making various observations which are - 14 - ITA No. 166 of 2025 purely his ipse dixit, contradictory, contrary facts and based on only surmises and conjecture. 5.7. The Learned Commissioner (Appeals) has failed to appreciate that having accepted that additional income offered to tax in survey proceeding, the impugned addition is duplicating in nature resulting in taxing the same amount twice over. 5.8. The Lower Authorities have unjustly refused to grant the benefit of telescoping.

6. As regards levy of interest of Rs.2,97,176/-under section 234A of the Act: 6.1. The Learned Assessing Officer is not right in law and on facts in levying interest under section 234A of Rs.2,97,176/ -. 6.2. The Learned Assessing Officer is not justified in levying the aforesaid interest when the impugned addition is not tenable. For the above Grounds and for such other Grounds which may be allowed by the Honourable Members to be urged at the time of hearing, it is prayed that the aforesaid appeal be allowed." 7.6 The Tribunal has summarized the reasons for rejecting the appeal filed by the assessee, which are as under: "i. Survey in this case took place on 27.09.2016, - 15 - ITA No. 166 of 2025 ii. Assessee himself made disclosure giving various reasons such as omission and commission. Therefore it is right that only assessee was aware what for he is disclosing the sum. iii. ROI was filed on 20-11-2017, In the ROI assessee himself offered this income as Income from other sources. iv. In the computation also assessee did not give any breakup or basis of such disclosure made. v. Assessee was silent before Id AO, did not make any claim of non-taxability of above sum. vi. Assessment took place and assessee accepted the same. vii. Before CIT (A), even did not raise any ground about the non-taxability of sum disclosed in survey. Only Ground no.3 was regarding applicability of section 115 BBE. viii. This ground was raised in appeal memo before us though not decided by the lower authorities against the assessee, as it was not agitated before them by assessee. ix. It is disclosure of assessee made voluntarily, he did not retract it but owned it in ROI and also did not show or explain any error or omission, which assessee was only aware about, raising these issues now after 8 years, that too without showing what prompted him for disclosure and - 16 - ITA No. 166 of 2025 what prevented him in not retracting it and now throwing onus on revenue to show the evidence of disclosure is clearly not acceptable."

8. It is contended that the assessee is entitled to raise additional grounds for the first time before the Tribunal and that the Tribunal is competent to examine such grounds. It is further contended that, in the present case, the Tribunal failed to exercise the discretion vested in it in accordance with law.

9. The Hon'ble Supreme Court, in National Thermal Power Co. Ltd. v. Commissioner of Income Tax [(1998) 229 ITR 383], while dealing with the scope of the powers of the Tribunal under Section 254 of the I.T. Act, has held as under: "4. The Tribunal has framed as many as five questions while making a reference to us. Since the Tribunal has not examined the additional grounds raised by the assessee on merit, we do not propose to answer the questions relating to the merit of those contentions. We reframe the question which arises for our consideration in order to bring out the point which requires determination more clearly. It is as follows: "Where on the facts found by the authorities below a question of law arises (though not raised before the authorities) which bears on the tax liability of the assessee, whether the Tribunal has jurisdiction to examine the same." - 17 - ITA No. 166 of 2025 Under Section 254 of the Income Tax Act the Appellate Tribunal may, after giving both the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit. The power of the Tribunal in dealing with the appeals is thus expressed in the widest possible terms. The purpose of the assessment proceedings before the taxing authorities is to assess correctly the tax liability of an assessee in accordance with law. If, for example, as a result of a judicial decision given while the appeal is pending before the Tribunal, it is found that a non-taxable item is taxed or a permissible deduction is denied, we do not see any reason why the assessee should be prevented from raising that question before the Tribunal for the first time, so long as the relevant facts are on record in respect of that item. We do not see any reason to restrict the power of the Tribunal under Section 254 only to decide the grounds which arise from the order of the Commissioner of Income Tax (Appeals). Both the assessee as well as the Department have a right to file an appeal/cross-objections before the Tribunal. We fail to see why the Tribunal should be prevented from considering questions of law arising in assessment proceedings although not raised earlier.

5. In the case of Jute Corpn. of India Ltd. v. CIT [1991 Supp (2) SCC 744 : (1991) 187 ITR 688] this Court, while dealing with the powers of the Appellate Assistant Commissioner observed that an appellate authority has all the powers which the original authority may have in deciding the question before it subject to the restrictions or limitations if any prescribed by the statutory provisions. In the absence of any statutory provision the appellate authority is vested with all the preliminary powers which - 18 - ITA No. 166 of 2025 the subordinate authority may have in the matter. There is no good reason to justify curtailment of the power of the Appellate Assistant Commissioner in entertaining an additional ground raised by the assessee in seeking modification of the order of assessment passed by the Income Tax Officer. This Court further observed that there may be several factors justifying the raising of a new plea in an appeal and each case has to be considered on its own facts. The Appellate Assistant Commissioner must be satisfied that the ground raised was bona fide and that the same could not have been raised earlier for good reasons. The Appellate Assistant Commissioner should exercise his discretion in permitting or not permitting the assessee to raise an additional ground in accordance with law and reason. The same observations would apply to appeals before the Tribunal also.

6. The view that the Tribunal is confined only to issues arising out of the appeal before the Commissioner of Income Tax (Appeals) takes too narrow a view of the powers of the Appellate Tribunal [vide e.g. CIT v. Anand Prasad [(1981) 128 ITR 388 (Del)] , CIT v. Karamchand Premchand (P) Ltd. [(1969) 74 ITR 254 (Guj)] and CIT v. Cellulose Products of India Ltd. [(1985) 151 ITR 499 (Guj)]]. Undoubtedly, the Tribunal will have the discretion to allow or not allow a new ground to be raised. But where the Tribunal is only required to consider the question of law arising from facts which are on record in the assessment proceedings we fail to see why such a question should not be allowed to be raised when it is necessary to consider that question in order to correctly assess the tax liability of an assessee." - 19 - ITA No. 166 of 2025

10. In the aforesaid judgment, it is held that the assessee is entitled to raise additional grounds before the Tribunal for the first time, provided the relevant facts relating to such grounds are already available on record. It is further held that where the Tribunal is required only to consider a question of law arising from the facts already on record in the assessment proceedings, it is competent to examine such a question.

11. In the present case, the assessee did not raise the plea of non-taxability of the additional income either before the Assessing Officer or before the CIT(A). The ground urged before the CIT(A) was confined to the applicability of Section 115BBE of the I.T. Act and not to the taxability of the additional income per se. For the first time before the Tribunal, the assessee sought to contend that the additional income admitted was not taxable. 11.1 In such circumstances, the Tribunal did not have the benefit of foundational facts necessary to examine the said contention. The issue sought to be raised is not a pure question of law but involves mixed questions of fact and law. In the absence of foundational facts on record, the Tribunal could not have adjudicated upon such issues. - 20 - ITA No. 166 of 2025 11.2 Learned counsel for the Assessee has relied on the following judgments; (i) Commissioner of Income Tax vs. S. Khader Khan Son, [2008] 300 ITR 157 (Madras) (ii) Commissioner of Income Tax, Salem vs. S. Khader Khan Son, [2013] 352 ITR 480 (SC) (iii) Pullangode Rubber Produce Co. Ltd. v. State of Kerala, [1973] 91 ITR 18 (SC) (iv) The Principal Commissioner of Income Tax- Central-3 vs. ARN Infrastructure Ltd., 2023-TIOL-1098-HC-DEL-IT (v) Commissioner of Income-tax-1 vs. Mantri Share Brokers (P.) Ltd., [2018] 96 taxmann.com 279 (Rajasthan) (vi) Kailash Ben Manharlal Chokshi vs. Commissioner of Income-tax, [2010] 328 ITR 411 (Gujarat) (vii) Paul Mathews & Sons vs. Commissioner of Income Tax [2003] 129 Taxman 416 (Kerala) (viii) Commissioner of Income Tax, Trichy vs. P. Balasubramanian, [2013] 354 ITR 116 (Madras) (ix) Public Accounts Committee (1977-78) - Wealth Tax (x) Commissioner of Income-tax vs. Shelly Products, [2003] 129 Taxman 271 (SC) - 21 - ITA No. 166 of 2025 (xi) Commissioner of Income-tax vs. Mahalakshmi Textile Mills Ltd. [1967] 66 ITR 710 (SC) (xii) Commissioner of Income-tax vs. H.R. Basavaraj, [2012] 20 taxmann.com 515 (Karnataka) (xiii) Commissioner of Income-tax vs. K. Venkatesh Dutt, [2009] 319 ITR 331 (Karnataka) (xiv) Commissioner of Income-tax, Madras vs. V. Mr. P. Firm, Muar, [1965] 56 ITR 67 (SC) (xv) Peerless General Finance and Investment Co. Ltd. vs. Commissioner of Income Tax [2019] 416 ITR 1 (SC) (xvi) National Co-operative Development Corporation vs. Commissioner of Income Tax, Delhi-V, [2020] 427 ITR 288 (SC) (xvii)Commissioner of Income Tax vs. Sumitomo Corporation [2016] 382 ITR 75 (Delhi)

12. Section 139 of the I.T. Act provides for the filing of a return of income. In the event of any omission or error in the return, sub-section (5) of Section 139 enables the assessee to revise the return within the prescribed time. If the case of the assessee is that the additional income was wrongly offered, though otherwise not taxable, and that such offering was based solely on an admission allegedly obtained under coercion during - 22 - ITA No. 166 of 2025 the course of a survey, the I.T. Act provides adequate remedial measures to address such a grievance.

13. In the present case, the so-called coercive admission has not been retracted till date. It is difficult to accept the contention that the alleged coercion exercised during the survey on 27.09.2016 continued unabated till the filing of the return of income on 20.11.2017. Even assuming such coercion, nothing prevented the assessee from raising the said issue before the Assessing Officer, which the assessee consciously chose not to do.

14. Further, when the appeal was preferred before the CIT(A), the challenge was confined only to the chargeability of the additional income at the special rate of 60% under Section 115BBE of the Act and not to the taxability of the additional income itself. If the admitted income is permitted to be questioned for the first time at the stage of the Tribunal, it would undermine the finality and sanctity attached to admissions made in the return of income. When a return of income is selected for scrutiny, the scope of scrutiny is ordinarily confined to the verification and disallowance of claims made by the assessee. A scrutiny assessment to examine the - 23 - ITA No. 166 of 2025 correctness of such claims cannot be extended or enlarged to reduce the income voluntarily admitted by the assessee. The Assessing Officer is not vested with the power to reduce the admitted income. If any erroneous admission is made, the statute provides a specific mechanism to correct such an error. The assessee, however, has chosen not to avail the remedies provided under the Act.

15. The reliance placed by learned counsel for the appellant- assessee on the circulars is of no assistance. None of the circulars mandates the reversion or withdrawal of income voluntarily admitted by the assessee in a duly filed return of income. The various judgments relied upon do not deal with a situation akin to the present case. Those decisions were rendered in the context of admissions made during the course of a survey which were not corroborated, and it was held that such unsubstantiated admissions could not, by themselves, form the sole basis for assessment.

16. In the case on hand, as noticed above, the return of income was filed nearly 14 months after the survey. The letter dated 29.09.2016, volunteering to offer additional income, is not the sole basis of the return of income; rather, the income - 24 - ITA No. 166 of 2025 was consciously declared in the return subsequently filed. It is difficult to accept the contention that even after a lapse of 14 months from the date of survey, the assessee continued to be under coercion or pressure while offering the additional income.

17. Further, the assessee had the statutory opportunity to revise the return under Section 139(5) of the Income-tax Act, which was not availed. Significantly, the letter dated 29.09.2016 was never retracted. Apart from this, as observed hereinabove, no claim was made before the Assessing Officer seeking exclusion of the additional income. Even in the appeal before the CIT(A), no such contention was raised.

18. On the contrary, throughout the proceedings, the assessee consciously canvassed that the additional income be taxed at the normal rate instead of the special rate of 60% under Section 115BBE of the Act. Such conduct clearly demonstrates that the assessee entertained no doubt regarding the taxability of the additional income voluntarily and consciously offered in the return of income after due verification.

19. We further find no justifiable grounds to support the contention that the additional income offered was not based on - 25 - ITA No. 166 of 2025 evidence. In the case of admitted income, it is not for the Assessing Officer to establish the evidentiary basis thereof. The income is admitted by the assessee on the basis of self- assessment, and such burden cannot be shifted to the Assessing Officer.

20. The findings recorded by the Tribunal are based on the facts of the case and constitute findings of fact. No perversity is demonstrated so as to give rise to any substantial question of law for consideration by this Court. Accordingly, the appeal stands dismissed. Sd/- (S.G.PANDIT) JUDGE Sd/- (K. V. ARAVIND) JUDGE MV