The Principal Commissioner Of Income ... vs Govindachary

ID: F2J-C-2537 **Court:** Karnataka High Court
Case: WA No. 1785 of 2024 **Date:** 2025-09-16

Karnataka High Court The Principal Commissioner Of Income ... vs Govindachary on 16 September, 2025 Author: S.G.Pandit Bench: S.G.Pandit -1- NC: 2025:KHC:36864-DB WA No. 1785 of 2024

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF SEPTEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT APPEAL No. 1785 OF 2024 (T-RES)

BETWEEN:

1. THE PRINCIPAL COMMISSIONER OF INCOME TAX BENGALURU - 2, BENGALURU BMTC BUILDING, 80 FT ROAD, 6TH BLOCK, NEAR KHB GAMES VILLAGE, KORAMANGALA, BENGALURU - 560 095, THE DESIGNATED AUTHORITY UNDER THE DIRECT TAX VIVAD SE VISHWAS ACT, 2020

Digitally signed 2. ASSISTANT COMMISSIONER OF INCOME TAX by VALLI MARIMUTHU CIRCLE - 4(3) (1), BENGALURU Location: HIGH CENTRAL REVENUE BUILDING, QUEENS ROAD COURT OF BENGALURU - 560 001, KARNATAKA THE ASSESSING OFFICER, UNDER THE INCOME TAX ACT, 1961.

3. THE COMMISSIONER OF INCOME TAX (APPEALS), BENGALURU -15, BENGALURU CENTRAL REVENUE BUILDING, QUEENS ROAD, BENGALURU - 560 001, THE APPELLATE AUTHORITY UNDER SECTION 246A OF THE INCOME TAX ACT, 1961. ...APPELLANTS (BY SRI SANMATHI E. I., SENIOR STANDING COUNSEL) -2- NC: 2025:KHC:36864-DB WA No. 1785 of 2024

HC-KAR

AND:

1. GOVINDACHARY, S/O LATE SRI DASACHARY, AGED ABOUT 75 YEARS, No.17/1, AMBALIPURA VILLAGE, AGARA POST, BELLANDUR GATE, VARTHUR HOBLI, SARJAPUR ROAD, BENGALURU- 560 102. ...RESPONDENT (BY SRI SHREEHARI KUTSA, ADVOCATE FOR C/R1)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 18/09/2024 IN WP No.19696/2024 PASSED BY THE HON'BLE LEARNED SINGLE JUDGE.

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

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT and HON'BLE MR. JUSTICE K. V. ARAVIND

ORAL JUDGMENT (PER: HON'BLE MR. JUSTICE K. V. ARAVIND) Heard Sri E.I. Sanmathi, learned Senior Standing Counsel for the appellants-Revenue, and Sri Shreehari Kutsa, learned counsel for the respondent-Assessee.

2. The Revenue has preferred this appeal under Section 4 of the High Court Act, assailing the order dated 18.09.2024 passed in W.P. No.19696/2024, whereby the Revenue was directed to issue a fresh certificate in Form-3. -3- NC: 2025:KHC:36864-DB WA No. 1785 of 2024 HC-KAR

3. Sri E.I. Sanmathi, learned Senior Standing Counsel for the Revenue, submits that only the disputed tax is covered under the Direct Tax Vivad Se Vishwas Act, 2020 (for short, 'DTVSV Act'). It is submitted that the assessee included interest under Sections 234A, 234B, and 234C of the Income-tax Act, 1961 (for short, 'the Act') in the application filed under the DTVSV Act. The declaration was rejected to the extent of interest under Sections 234A, 234B, and 234C of the Act, as the same is not covered under the DTVSV Act. Learned Senior Standing Counsel further contends that the learned Single Judge, without examining the scope of disputes covered under the DTVSV Act, directed the issuance of a fresh certificate in Form-3.

4. Sri Shreehari Kutsa, learned counsel for the assessee, submits that all disputed items, including tax, interest and penalty are covered under the DTVSV Act. It is further submitted that the learned Single Judge, having regard to the benevolent nature of the scheme towards taxpayers, has rightly directed consideration of interest under the DTVSV Act. -4- NC: 2025:KHC:36864-DB WA No. 1785 of 2024 HC-KAR

5. Having considered the submissions advanced by learned counsel for the parties and the relevant provisions of the DTVSV Act, we note that Section 3 enables a taxpayer to make a declaration before the designated authority in accordance with Section 4, notwithstanding anything contained in the Income-tax Act or any other law for the time being in force. Section 3 further contemplates computation of the amount payable under the Act by the declarant.

"3. Amount payable by declarant.--Subject to the provisions of this Act, where a declarant files [under the provisions of this Act on or before such date as may be notified,] a declaration to the designated authority in accordance with the provisions of Section 4 in respect of tax arrear, then, notwithstanding anything contained in the Income-tax Act or any other law for the time being in force, the amount payable by the declarant under this Act shall be as under, namely:--

Sl. Nature of tax Amount payableAmount payable No. arrear. under this Act on under this Act on or before the or after the [1st [31st day of day of January, December, 20202021 or such later or such later date as may be date as may benotified] but on or notified]. before the last date.

(a) where the tax amount of the the aggregate of arrear is the disputed tax. the amount of aggregate disputed tax and amount of ten per cent of disputed tax, disputed tax:

interest chargeable or provided that -5- NC: 2025:KHC:36864-DB WA No. 1785 of 2024 HC-KAR charged on where the ten per such disputed cent of disputed tax and tax exceeds the penalty aggregate amount leviable or of interest levied on such chargeable or disputed tax. charged on such disputed tax and penalty leviable or levied on such disputed tax, the excess shall be ignored for the purpose of computation of amount payable under this Act.

(b) where the tax the aggregate of the aggregate of arrear includes the amount of the amount of the tax, disputed tax and disputed tax and interest or twenty-five per thirty-five per cent penalty cent of the of disputed tax:

determined in disputed tax: any provided that assessment on provided that where the thirty- the basis of where the five per cent of search under twenty-five per disputed tax Section 132 or cent of disputed exceeds the Section 132-A tax exceeds the aggregate amount of the Income- aggregate of interest tax Act. amount of chargeable or interest charged on such chargeable or disputed tax and charged on such penalty leviable or disputed tax and levied on such penalty leviable disputed tax, the or levied on such excess shall be disputed tax, the ignored for the excess shall be purpose of ignored for the computation of purpose of amount payable. computation of amount payable under this Act. -6- NC: 2025:KHC:36864-DB WA No. 1785 of 2024

HC-KAR

(c) where the tax twenty-five per thirty per cent of arrear relates cent of disputed disputed interest to disputed interest or or disputed interest or disputed penalty penalty or disputed or disputed fee. disputed fee: penalty or disputed fee.

Provided that in a case where an appeal or writ petition or special leave petition is filed by the income-tax authority on any issue before the appellate forum, the amount payable shall be one-

half of the amount in the Table above calculated on such issue, in such manner as may be prescribed:

Provided further that in a case where an appeal is filed before the Commissioner (Appeals) or objections is filed before the Dispute Resolution Panel by the appellant on any issue on which he has already got a decision in his favour from the Income Tax Appellate Tribunal (where the decision on such issue is not reversed by the High Court or the Supreme Court) or the High Court (where the decision on such issue is not reversed by the Supreme Court), the amount payable shall be one- half of the amount in the Table above calculated on such issue, in such manner as may be prescribed:

Provided also that in a case where an appeal is filed by the appellant on any issue before the Income Tax Appellate Tribunal on which he has already got a decision in his favour from the High Court (where the decision on such issue is not reversed by the Supreme Court), the amount payable shall be one- half of the amount in the Table above calculated on such issue, in such manner as may be prescribed.

6. Section 3 provides for filing of a declaration under the DTVSV Act in respect of tax arrears under Section 2(1)(o) of the DTVSV Act defines 'tax arrear' as: -7-

NC: 2025:KHC:36864-DB WA No. 1785 of 2024 HC-KAR "tax arrear" means-

(i) the aggregate amount of disputed tax, interest chargeable or charged on such disputed tax, and penalty leviable or levied on such disputed tax; or

(ii) disputed interest; or

(iii) disputed penalty; or

(iv) disputed fee, as determined under the provisions of the Income-tax Act.

[Explanation - for the removal of doubts, it is hereby clarified that the expression "tax arrear" shall not include and shall be deemed never to have been included any sum payable either by way of tax, penalty or interest pursuant to an order passed by the Settlement Commission under Chapter XIX-A of the Income Tax Act.]"

7. On a combined reading of Section 3 and the definition of 'tax arrear', it is evident that the same includes disputed tax, interest chargeable or charged on such disputed tax, and penalty leviable or levied on such disputed tax. The definition of 'tax arrear' is unambiguous in including the corresponding interest and penalty relatable to the disputed tax. Furthermore, Section 3, which provides for quantification of the amount payable by the declarant, also contemplates inclusion of the prescribed tax, interest chargeable or charged on the disputed tax, and penalty leviable or levied on the disputed tax. In view of the plain language of Section 3, the contention of the -8- NC: 2025:KHC:36864-DB WA No. 1785 of 2024 HC-KAR Revenue that interest cannot be included under the Act is untenable and runs counter to the very object with which the Act was enacted. The object of the Act, as stated at its commencement, is as under:

" An Act to provide for resolution of disputed tax and for matters connected therewith or incidental thereto."

The Act, at its very inception, sets out the purpose and object sought to be achieved.

8. The learned Single Judge, having considered the scheme and object of the Act, was justified in issuing the directions impugned. We find ourselves in agreement with the findings recorded in the impugned order. No ground has been made out by the Revenue to warrant interference in this writ appeal. Accordingly, the writ appeal stands dismissed. SD/- (S.G.PANDIT) JUDGE SD/- (K. V. ARAVIND) JUDGE MV/ List No.: 1 Sl No.: 31