

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 28th DAY OF FEBRUARY 2007

PRESENT

THE HON'BLE MR. JUSTICE R. GURURAJAN

AND

THE HON'BLE MR. JUSTICE ANAND BYRAREDDY

INCOME TAX APPEAL No.1106/2006

BETWEEN:

1. The Commissioner of
Income Tax,
Mangalore.
2. Income Tax Officer,
Ward-1,
Udupi.

...APPELLANTS

(By Sri. Arvind Kumar, Adv.,)

AND:

M/s. Adarsh Wholesale Wines,
Ambal Padi,
Udupi.

...RESPONDENT

(By Sri. Kishore Shetty, Adv.,)

This ITA is filed U/S.260-A of I.T.Act, 1961 arising out of order dated 10-03-2006 passed in ITA No.2233/Bang/2004 for the Assessment Year 1998-99, praying to formulate the substantial questions of law stated therein, and allow the appeal and set aside the order.

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This appeal coming on for admission this day, R.Gururajan.J delivered the following:

J U D G M E N T

Commissioner is before us aggrieved by the order of the Tribunal dated 10.3.2006 passed in I.T.A.No.2233/Banga/2004. Return of income for the assessment year 1998-99 was filed by the assessee. A reference was made by the Addl. Commissioner for initiating penal action. Notice u/s.271D was issued and notice was confirmed by way of penalty of Rs.4,25,000/- in the case on hand. Appeal filed before the Commissioner stood allowed. Revenue filed a second appeal. Second appeal stood dismissed. Revenue is therefore before us.

2. Heard Sri.Arvind Kumar, learned Standing Counsel for the Department and Sri.Kishore Shetty, learned Counsel for the respondent. Perused the order of the Tribunal. It is true that cash transactions are to be curbed in the



light of Sec.269SS of the Income Tax Act. However, the Statute provides for condoning cash transactions subject to an acceptable explanation by the assessee. In the case on hand and in the light of the arguments of Sri.Aravind Kumar, learned Counsel, we have seen the order of the Commissioner and the Tribunal. Both the fact finding authorities have chosen to accept the explanation as reasonable. The Commissioner has noticed the factual explanation in para 5 and the same has been accepted by the Tribunal. The said acceptance cannot said to be in any way unacceptable in terms of the Statute. Orders are based on facts. No questions of law are involved. Appeal stands rejected.

Sd/-
Judge

nas.

Sd/-
Judge